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APPENDIX

Supreme Court of the United States

October Term, 194[illegible]

No. 127

WILLIAM [illegible],

Petitioner,

—v.—

NEW JERSEY,

Respondent.

ON WRIT OF CERTIORARI
TO THE SUPREME COURT OF NEW JERSEY

PETITION FOR CERTIORARI FILED AUGUST [illegible], 1948
CERTIORARI GRANTED MAY [illegible], 1949

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Supreme Court of the United States

OCTOBER TERM, 1969

No. 127

WILLIAM MONKS,
Petitioner,

—v.—

NEW JERSEY,
Respondent.

ON WRIT OF CERTIORARI
TO THE SUPREME COURT OF NEW JERSEY

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STATEMENT OF RELEVANT DATES IN LIEU OF DOCKET ENTRIES

March 1, 1957	Petition for Adjudication of Delinquency in Case No. J-1359 (Giambra), filed, Juvenile and Domestic Relations Court of Passaic County
March 1, 1957	Petition for Adjudication of Delinquency in Case No. J-1360 (Weiss), filed, Juvenile and Domestic Relations Court of Passaic County
December 3-11, 1957	Trial of both petitions, Juvenile and Domestic Relations Court of Passaic County
December 11, 1957	Orders adjudicating defendant a delinquent and committing him to New Jersey Reformatory at Bordentown, in Case Nos. J-1359 and J-1360, filed, Juvenile and Domestic Relations Court of Passaic County
January 23, 1958	Notice of Appeal to the Superior Court of New Jersey, Appellate Division, filed
April 11, 1958	Reformatory Superintendent by letter to Juvenile and Domestic Relations Court requested determination of the offense for which defendant was adjudicated delinquent
May 2, 1958	Juvenile and Domestic Relations Court replied by letter determining the offenses for which defendant was adjudicated delinquent
August 21, 1967	Order granting leave to prosecute delayed appeal in forma pauperis, filed, Superior Court of New Jersey, Appellate Division

March 27, 1968	Opinion affirming adjudication of delinquency and commitment, filed, Superior Court of New Jersey, Appellate Division
May 3, 1968	Petition for Certification, filed, Supreme Court of New Jersey
May 28, 1968	Order denying petition for certification, filed, Supreme Court of New Jersey
August 19, 1968	Petition for certiorari filed, Supreme Court of the United States
May 19, 1969	Certiorari granted, Supreme Court of the United States

IN THE JUVENILE AND DOMESTIC RELATIONS COURT OF PASSAIC COUNTY

Case No. J-1359

PETITION—Filed March 1, 1957

In the matter of William Monks, age 15, address 296 East 31st Street, Paterson, New Jersey, Color: white; religion: Protestant

Confined at Childrens Shelter as of February 16, 1957.

TO the Honorable HUGH C. SPERNOW, Judge of the Juvenile and Domestic Relations Court of Passaic County:

I, the undersigned petitioner, of Youth Guidance Bureau, in the municipality of Paterson, Passaic County, New Jersey, do hereby petition your Honorable Court, upon information, knowledge and belief, that WILLIAM MONKS, child under the age of eighteen years, residing with parents at 296 East 31st Street, Paterson, New Jersey, is a delinquent child, in that on November 12th, 1956, at approximately 8:30 P.M., in the middle of the roadway in front of 195 Wall Avenue, Paterson, New Jersey, while in the commission of an assault and robbery, he struck Giovanna Giambra, age 25, on the head, with a blunt instrument on repeated occasions, which resulted in her death on November 13th, 1956; and thereupon your petitioner prays that the said William Monks may be dealt with as law and justice may require in accordance with the provision of Title 2A:4-1 to Title 2A:4-41, Revised Statutes of New Jersey, and supplements thereof and amendments thereto.

Dated: March 1st, 1957

SERGEANT EDWARD J. KEYS
Petitioner

State of New Jersey)
) ss
County of Passaic)

Sgt. Edward J. Keys, the above named petitioner being duly sworn on his oath deposes and says that the matters and things in the foregoing petition are true to the best of his knowledge, information and belief.

Sergeant Edward J. Keys
Petitioner

Sworn and subscribed to before
me at Paterson, New Jersey,
this 1st day of March, 1957

/s/ Thomas F. Hand
Clerk

IN THE JUVENILE AND DOMESTIC RELATIONS COURT OF PASSAIC COUNTY

Case No. J-1560

Petition—Filed March 1, 1957

In the matter of William Monks, age 15, address 296 East 31st Street, Paterson, New Jersey, Color: white; religion: Protestant

Confined at Childrens Shelter as of February 16th, 1957

TO the Honorable HUGH C. SPERNOW, Judge of the Juvenile and Domestic Relations Court of Passaic County:

I, the undersigned petitioner, of Youth Guidance Bureau, in the municipality of Paterson, Passaic County, New Jersey, do hereby petition your Honorable Court, upon information, knowledge and belief, that William

Monks, child under the age of eighteen years, residing with parents at 296 East 31st Street, Paterson, New Jersey, is a delinquent child, in that on February 24th, 1956, at about 10:10 P.M., at East 31st Street between Broadway and 13th Avenue, Paterson, he did forcibly strike Naomi Weiss, age 42, on the head, with a blunt instrument causing a deep laceration which required fifteen sutures, and resulting in her hospitalization for a period of between six and seven weeks; and further that he did steal and carry away her pocket-book containing $30.00, an Elgin wrist-watch and various other articles; and thereupon your petiitoner prays that the said William Monks may be dealt with as law and justice may require in accordance with the provision of Title 2A:4-1 to Title 2A:4-41, Revised Statutes of New Jersey, and supplements thereof and amendments thereto.

Dated: March 1st, 1957

SERGEANT EDWARD J. KEYS
Petitioner

STATE OF NEW JERSEY)
) ss
COUNTY OF PASSAIC)

Sgt. Edward J. Keys, the above named petitioner being duly sworn on his oath deposes and says that the matters and things in the foregoing petition are true to the best of his knowledge, information and belief.

SERGEANT EDWARD J. KEYS
Petitioner

Sworn and subscribed to before
me at Paterson, New Jersey,
this 1st day of March, 1957

/s/ THOMAS F. HAND
Clerk

IN THE JUVENILE AND DOMESTIC RELATIONS COURT OF PASSAIC COUNTY

Case No. J-1359
J-1360

THE STATE OF NEW JERSEY
IN THE INTEREST OF
WILLIAM MONKS

Children's Shelter,
Wayne Township, New Jersey

BEFORE: HON. HUGH C. SPERNOW, Judge

TRANSCRIPT OF HEARING—December 3, 1957

APPEARANCES:

CHARLES S. JOELSON, ESQ.,
Attorney for State of New Jersey,

JAMES P. EVERS, ESQ., and
J. MORTIMER RUBENSTEIN, ESQ.,
Attorneys for William Monks.

[fol. 2] THE COURT: Let the record show that present in the room are Chester Jarmolowicz, Probation Officer, Mr. Rubenstein, Mr. Evers, William Monks, his father and mother, William Pirolo, Confidential Aide, Court Officer George Marcus, Mrs. Mae Price, the Deputy Attorney General, Clerk of the Court Mr. Thomas F. Hand and the Judge.

Now, will counsel consider Rule 6:9-6? William was born October 30, 1941, which makes him 16 years of age.

MR. RUBENSTEIN: If your Honor please, I think the determining factor is the date upon which the alleged action for which he is being charged as a juvenile occurred, not the date of trial. The State versus Johnson case determined that. It is the date of the occurrence rather than the date when the boy actually comes to trial.

THE COURT: Any objection to that view, Mr. Joelson?

MR. JOELSON: No, sir. * * *

[fol. 3] THE COURT: All right. Since there is no disagreement about that, we will proceed. Mr. Jarmolowicz, please read the petition in this matter.

* * * *

[fol. 6] THE COURT: * * *

Now, what about these complaints which have been read, or the petitions? Representing the boy, what sort of a plea do you enter to these?

MR. EVERS: Well, technically the plea would not be not guilty because it is not a criminal proceeding, but the boy denies that he committed the offenses alleged in the two petitions.

* * * *

[fol. 74] LEO WEBERMAN, being first duly sworn,
[fol. 75] testified on his oath as follows:

DIRECT EXAMINATION

BY MR. JOELSON:

Q Mr. Weberman, what do you do for a living?

A I am an official Court Reporter of the State of New Jersey.

Q Now, on February 26, 1957, did you have occasion to take down a transcript of questioning of William Richard Monks by Detective Vincent DeSimone of the Prosecutor's office?

A I did.

Q And did you well and faithfully transcribe the questions and answers exactly as they were given?

A I did.

Q Now, I show you a transcript and ask you what this is.

A This is a transcript of the questions and answers of William Richard Monks.

Q Taken what time?

A 10:30 p.m., February 26, 1957. The statement was started at 10:45 p.m. and completed at 11:30 p.m.

Q And in whose presence was this statement taken?

A Deputy Attorney General Charles Joelson, Probation Officer Chester Jarmolowicz, Captain John O'Brien, Detective Sergeant Peter Ventimiglia, Detective Joseph Meola and County Detective Vincent DeSimone of the Prosecutor's office.

MR. JOELSON: I offer this statement in evidence.

[fol. 76] MR. RUBENSTEIN: If your Honor please, this is a statement in the nature of a confession, sir. He is called out of turn. He must have a preliminary examination. All he can do is mark it for identification.

MR. JOELSON: All right.

THE COURT: Is it signed?

BY MR. JOELSON:

Q Is this signed by the defendant?

A Yes, it is.

MR. JOELSON: I will offer it, then, for identification.

THE COURT: All right, S-5.

(Statement dated February 26, 1957, marked Exhibit S-5 for identification.)

Q I show you another statement and ask you what this is.

A This is a statement of William Monks taken on February 27, 1957, started at 12:00 a.m. and completed at 1:00 a.m.

Q In the presence of the same persons as involved in S-5?

A Yes.

MR. JOELSON: I will offer that for identification.

THE COURT: S-6.

(Statement dated February 27, 1957, marked Exhibit S-6 for identification.)

[fol. 77] Q That statement also, Mr. Weberman, is signed by William Richard Monks, right?

A That's right.

• • • •

THE COURT: Now it is marked for identification. On the question of the voluntary nature of it, do you have any further questions of Mr. Weberman?

MR. JOELSON: No, I don't.

THE COURT: On the question of the voluntariness of the statement you may now examine Mr. Weberman if he has any relevant testimony on that point.

* * * *

[fol. 78] CROSS EXAMINATION

BY MR. RUBENSTEIN:

Q Mr. Weberman, where was that statement taken?
A At the Court House in Paterson.
Q What room in the Court House?
A The Court Reporters' room.
Q The Court—
A Court Reporters' office.

THE COURT: Counsel, there are two statements, S-5 and S-6.

Q S-5.
A Both statements.
Q Were both taken at the same time?
A Yes.
Q And they were taken one after the other?
A Yes.
Q In the same place?
A Yes.

MR. JOELSON: I might state for the record that S-5 relates only to the Weiss matter and S-6 only to the Giambra matter, but they were taken consecutively.

THE COURT: All right.

THE WITNESS: They are not the same day. It wove into the next day because it was taken late at night. I just noticed the dates.

[fol. 79] Q But it was consecutive. In other words, the difference in dates is because you ran over the 12:00 midnight hour, isn't it?
A Yes.
Q This was quite late at night?

A Yes.

Q What room is that?

A Room 25.

Q Where is that located?

A Right adjacent to Judge Davidson's Chambers.

Q And that is—

A Off the Probation Department.

Q Off the Probation Department?

A Yes.

Q Now, when you arrived at that room, who was there?

A Deputy Attorney General—

* * * *

A Deputy Attorney General Charles Joelson, Probation Officer Chester Jarmolowicz, Captain John O'Brien, Detective Sergeant Peter Ventimiglia, Detective Joseph Meola, County Detective Vincent DeSimone.

Q In other words, they were already in the room when you arrived there?

A Yes.

Q Did the questioning proceed immediately upon your arrival?

A That's right.

Q And did you transcribe the questions into short- [fol. 80] hand or did you type directly from the questions and answers?

A Directly to the typewriter.

Q Directly into the typewriter?

A Yes.

Q The question was asked—did you have them then wait until you could finish the question?

A Definitely.

Q The answer was given—

A Definitely.

Q And then if the answer was long, would you have him break it up or what?

A Definitely break it up.

Q There are two statements there. Did the statements continue—

A Well, I can tell by the time. The first one was completed at 11:30; the second one was started a half hour later.

Q In other words, it was a half hour in between the completion of the first statement and the starting of the second statement?

A That's right.

Q Were you in the room during that half hour?

A Oh, yes.

Q Or did you leave the room?

A I was right there.

Q So from the time you entered until the time these were completed, you never left the room?

A That's right.

Q Did the same group who were there, did they [fol. 81] continue to remain in the room?

A As far as I remember, yes.

Q All during the questioning?

A Yes.

Q Now, prior to the time any questions were asked of William Monks, were any statements made to William Monks by yourself?

A No.

Q By any other person who was in the room?

A I don't recall exactly whether statements were made or not. It is too long ago. I don't recall.

Q You didn't record any statements that might have been made?

A I only recorded what I was told to type.

Q You were only told to type the questions and the answers?

A That is correct.

Q You have no recollection of any other statements being made prior to the questions and answers which you recorded?

A I couldn't recall anything definitely, no.

Q So that what is marked S-5 and S-6 for identification only refer to questions and answers and not to anything else which may have been said from the time you entered the room until the time you completed the statement, S-6?

A That's right.

Q From the time S-5 was completed until the time S-6 for identification was commenced, what was going [fol. 82] on in the room, do you know?

A I couldn't recall now. We might have had a cup of coffee or—

Q You don't recall?

A I might have been getting the papers ready for the officers to sign, and things of that nature.

Q But you don't recall?

A I couldn't tell you exactly, no.

* * * *

PETER VENTIMIGLIA, being first duly sworn, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. JOELSON:

Q Detective Ventimiglia, you are a member of the Paterson police force, is that right?

A Yes, sir.

Q And you are assigned as a Detective Sergeant in the Detective Bureau, right?

A Yes, sir.

Q Now, did you have occasion to question William Monks with regard first to the assault upon Miss Naomi Weiss?

[fol. 83] A Yes, I did.

Q When did you first question him and where?

A The first time I questioned William Monks was at the Shelter right here on February 18, I believe, on a Monday, February 18, in the presence of County Detective DeSimone and Probation Officer Jarmolowicz.

* * * *

Q Now, did you give the exact date upon which you first spoke to him?

A Monday, February 18, 1957.

Q Will you tell us the nature of that conversation?

A The conversation that afternoon—

Q By the way, who was with you except Mr. Monks, anybody else?

A County Detective DeSimone and Probation Officer Jarmolowicz.

Q Go ahead.

A We questioned William Monks at that time relative to purse snatching. We were exploring any other purse snatchings previous to the two that he had been picked up for and we dealt mainly with any previous purse snatchings and the general modus operandi, as to where he may have obtained or what person may have [fol. 84] shown him this manner of purse snatching.

He denied any previous purse snatchings, and we then concentrated on the area which is known to us as the east side, which led to the asking of Bill Monks as to whether he ever snatched a bag from a woman near the hospital. At that point he stated, "I remember that night, it was snowing." Then he interjected that we were questioning him primarily because of the Giambra case and he said, "I was already questioned on that and I have an alibi and I was picked up by the police and I told the police that I had been in a luncheonette at the corner of 15th Avenue and East 22d Street," which, of course, Mr. Joelson and Judge Spernow, was very true, he had been questioned during the Giambra investigation.

We asked Bill Monks then and there if he would submit to a lie detector test and he said he would. That completed the interrogation at that time here at the Shelter.

Q Now, for what reason was Chester Jarmolowicz present? Is he a member of either the Paterson Police Department or the County Prosecutor's office?

A He is not but that was the arrangement and stipulation made by then Judge Schamach, that the only way we would get to talk to the boy would be with a Probation Officer present and that accounted for Mr. Jarmolowicz's presence.

Q And on all occasions when you spoke to William [fol. 85] Monks was Officer Jarmolowicz present?

A Yes, sir.

Q Now, when did you next talk to William Monks after February 18, 1957?

A On February 21, 1957. Arangements had been made to bring the boy to the anteroom of the Grand Jury in the Court House for the purposes of submitting him to a lie detector test.

Q Without going into the test at all, did you talk to Monks after the test was completed on that day?

A No, we did not.

Q All right. When did you next see Monks?

A I believe it was on Tuesday, February 26th of 1957, when William Monks was re-submitted to the lie detector test. At approximately 4:30 p.m. that day Monks confessed to the Weiss matter.

Q When you say he—

THE COURT: That is a conclusion. Let's find out what he said.

MR. JOELSON: I will consent to that being stricken.

Q Now, what was your conversation with Mr. Monks on that day and under what circumstances did the conversation take place?

A The conversation—interrogation took place after he had been submitted to a test on the machine.

Q About what time of the day was this conversation [fol. 86] that you are about to relate?

A About 4:30 p.m.

Q What was the conversation?

A Monks told us, that is, Detective DeSimone and Detective Meola and Probation Officer Jarmolowicz about the purse snatch that took place on East 31st Street back in February of 1956, February 24th, I believe it is, and on that evening with the snow falling—there had been a light snowfall—

Q Is this what he told you?

A Yes.

Q Go ahead.

A He was on East 31st Street, he took a position on the corner of East 31st Street and 13th Avenue by the nurses' home and he noted this woman walking towards Broadway on the west side of East 31st Street.

When she had reached a point alongside the hospital itself, he crossed diagonally and struck her over the head and when she fell to the sidewalk he took the hand bag and a package and then ran along the west side of East 31st Street towards Park Avenue.

At the corner of 15th Avenue and East 31st Street he entered a home, a furnished room home, via a rear door. Once in the house he went into the bathroom, examined the bag and removed the contents, cash contents. He then came out of the bathroom, out into the yard, he disposed of the package. He said that he had taken a package that she had been carrying, and at this point [fol. 87] he told us that he had also discarded the lead pipe that he had used—

Q Did he tell you what he hit her with?

A He said it was a lead pipe. He described it as being about two foot long and about an inch and a half in width. He also described the package, the size of the package as being, I think to indicate for the court, about the size of this envelope that Detective DeSimone has. He didn't know what was in it, he never examined the contents.

He told us that he discarded that into the garbage bin at the rear of this house on the corner of 15th and East 31st Street. At that time he also told us that he had discarded the lead pipe at the rear of this same yard.

Q Do you know as a matter of fact what did happen to that package?

A I do. He never got the package.

Q You are satisfied as to that?

A Yes, sir.

Q Continue, please.

A At this point I asked him to describe the way he had assaulted this woman and he told us that he had struck her over the head with his hand. At that point I interjected. I said to him, "Bill, if I were to tell you that this woman was bleeding from the head you could see that you couldn't possibly do that with your fist," and he was hesitant and then admitted that he had used the pipe on her and that he had struck her one blow.

[fol. 88] I then asked him to describe the bag and he says, "Well, you have the bag." At that point we went out—we were in the Grand Jury room proper—we went out, and we have five or six handbags there, and he identified this bag as being the bag that he took from the Weiss woman.

Q Now, I show you S-4 in evidence and ask you if this is the bag that was—

A That is the bag that he identified and that is the bag that was made available to us by Miss Weiss' sister as being an exact replica of the bag that was stolen that night. At that point, like I said, he indicated that we had the bag and he identified that specific bag as being the bag that he took from the Weiss woman.

As to the package, I asked him what else he did take from the Weiss woman other than her handbag and he said that he had taken this package that she was carrying. I asked him to identify the contents of the handbag and he told us that there was $30.00 in cash, there was a pen and pencil set, a ladies wrist watch, and at that point I asked him if he could remember a small box and he said he did remember the small box. I described it as a pill box because our report showed that there had been a small box of that type in the bag.

Q Other than calling his attention specifically to a pill box, did you or to your knowledge did anybody else [fol. 89] ever divulge to this boy what the contents of the purse consisted of?

A No, sir.

Q You were in charge of the investigation as to this suspicion against the Monks boy, were you not?

A Yes, sir.

Q Was the information as to the contents of the Weiss purse ever made available to the press?

A It was not, nor was the fact that she was carrying a package.

Q Now, you say this was approximately 4:30 in the afternoon on February 26, 1957.

A That is correct.

Q After this statement was made to you by Monks, what did you do?

A We then upon asking him what he had done with the bag and the contents of the bag and the package, he agreed to accompany us to that area and he was placed in a car, I think it was Detective DeSimone's car, and we drove to East 31st Street approaching East 31st Street from 14th Avenue and we made a left at East 31st Street out of 14th Avenue, and as we pulled to the curb at the corner of East 31st and 13th Avenue the car came to a stop and before the car came to a stop he said, "That is the tree I hid behind." He got out of the car and he demonstrated how he had hidden behind the tree at this specific corner, and he demonstrated the position he took behind the tree and how the woman came walking on the west side of East 31st Street [fol. 90] towards Broadway and also demonstrated when she got to a point not too far from the corner of Broadway he cut diagonally across, walked up behind her and hit her over the head with this pipe. He then led us from that point, indicating on the sidewalk just about where she fell, and then he said that he ran along East 31st Street and he took us into the rear entrance of the house that I have spoken about, into the bathroom, and before we entered the house he took us into the yard itself where there is a large hedge and indicated that he had thrown the pipe there and he showed us the garbage bin where he had thrown the package.

At that time he said that he had buried the package beneath the garbage itself. Then from there he took us to—

Q I show you S-1 in evidence and ask you to point out the house to which you refer.

A The house I am talking about is on the corner of 15th and East 31st Street, 465, as indicated here.

THE COURT: Will you have the Sergeant indicate the tree or the approximate location of the tree?

THE WITNESS: The tree—I would like to mark this—is the first tree along the curb here on East 31st just off the corner of 13th Avenue.

Q You have marked that with an X with a circle around it?

A Yes.

[fol. 91] THE COURT: Where is the nurses' home?

THE WITNESS: On that same corner, sir.

THE COURT: Which corner? Put an N there, a big N.

THE WITNESS: All right (witness complying).

THE COURT: Is that right, where he has that N? Is that where the nurses' home is?

MR. RUBENSTEIN: Yes, that is the nurses' home. Well, it was formerly the nurses' home. They don't use it as the nurses' home anymore.

BY MR. JOELSON:

Q Now, you say that he told you that he threw the pipe in the hedge at that time.

A Yes, at that time.

Q Now, what happened after that?

A Well I started to tell you that he took us to a place on East 26th Street and he indicated a plot of ground where he had buried the Weiss bag or the Weiss wrist watch and, of course, when he identified the bag we had in custody here we were sort of put on a little bit of a spot, so we went up there looking for the wrist watch because he said, "Well, you have the bag," and we dug there with the use of some shovels and then he called us back to the car and said, "No, it is not there," and with that we all returned to the car and he recanted on this Weiss matter.

Q On the entire matter?

[fol. 92] A On the entire matter.

Q He said that everything he had previously told you was—what did he tell you?

A He said that he had made it all up.

Q So then what did you do?

A He was then returned to the Court House and at the Court House back up on the third floor we met Robert Stopford, he was there with his mother, and Stopford was given a test on the machine and we confronted Stopford or Monks with Stopford at approximately 6:30 p.m. and in Monks' presence Stopford repeated that Monks had told him about the Weiss assault. There was no answer from Monks. He just lowered his head onto the table. Shortly thereafter—

THE COURT: Where was that?

THE WITNESS: That is in the Grand Jury room, sir.

THE COURT: All right.

THE WITNESS: In the Grand Jury room itself.

THE COURT: Who was present?

THE WITNESS: Detective DeSimone, Detective Meola, Mr. Jarmolowicz and myself. Subsequent to that Monks was put on the machine again and it was during—

Q By the machine, what do you mean?

A The lie detector, Polygraph, and subsequently Mr. Arther—

Q Who is Mr. Arther?

A I'm sorry, Richard Arther is the Examiner for [fol. 93] John Reid and Associates. He was the man who was giving the boys the tests. Mr. Arther came to the door, came outside and indicated that Monks—

MR. EVERS: I want to object to anything that Mr. Arther said unless it was in the presence of the defendant.

A (Continuing.) Well, as a result of Mr. Arther coming to the door County Detective DeSimone went into the anteroom where the test was being conducted and subsequently they both came out and the Monks boy came out with him and we went into the Grand Jury room—

Q How long after DeSimone went in the room with Monks did they emerge?

A Around 15 minutes, 10 or 15 minutes.

Q Was anybody else in there with him?

A There was Detective DeSimone, Mr. Arther and the Monks boy in the room itself where the tests were conducted.

Q Would you know whether Mr. Jarmolowicz was there?

A In the anteroom, no.

Q Then they came out, you say?

A Yes, they came out and we all sat then in the Grand Jury room itself, all the people that I have mentioned, County Detective DeSimone Detective Meola, Mr. Arther, Mr. Jarmolowicz, myself, and Monks made his confession.

MR. JOELSON: I will consent to the word "confession" being stricken.

[fol. 94] Q Did he then make a statement about either the Weiss case or the Giambra case or both?

A At that point it was the Giambra case.

Q What did he say in your presence?

A That on the evening of November 12—

THE COURT: What time was this?

THE WITNESS: Around 8:46.

THE COURT: Go ahead.

A (Continuing.) That on that evening he had been at the corner of 13th Avenue and Wall Avenue—that would be the southeast corner, I believe—well, anyway he was on the corner and he had this pipe in his sleeve, the sleeve of his jacket, and he noted this woman walking north on Wall Avenue on the east side of the street towards him. He stepped out and approached her, whereupon she turned and fled running diagonally across Wall Avenue and he after her. He says that he caught up with her in the middle of the road and he struck her with this pipe twice and that she fell to the roadway. He then grabbed her bag and ran south on Wall Avenue to the corner of 14th Avenue where he first was going to run down 14th Avenue towards 33d Street, but he noted a lot of people there so he decided to run east up Wall Avenue or up 14th Avenue into the Park. He then said that he ran through the Park and made his way down to the river bank just off the ball field at East [fol. 95] Side Park. Once down on the river bank he examined the contents of the bag. He said there was $3 in it. He then threw the bag and the weapon into the Passaic River.

Q Now, were you present when statements in the form of typewritten questions and answers were made before Leo Weberman?

A I was, sir.

Q Who asked those questions?

A County Detective DeSimone.

Q Now, the following day, that would be on February 27, 1957, did you again see William Monks?

A Yes, sir. On that morning, Wednesday morning, the 27th of February, 1957, we saw—I say "we," Detective Meola and myself—William Monks at the Court House. He had been brought from the Children's Shelter, and in the company of Detective DeSimone we went to the Passaic River just off the East Side ball park.

Now, with County Detective DeSimone, Sergeant Garrity of the Paterson police identification bureau and the Monks boy we then proceeded to East 31st Street, where the Monks boy then again reenacted the Weiss assault and photographs were taken by Sergeant Garrity, and once that was completed we then went to the corner of 13th Avenue and Wall Avenue where the Monks boy indicated where he had taken his position that evening and he reconstructed the assault on the Giambra girl. [fol. 96] He then took us through the park, and I believe that he indicated then, he showed us exactly where —well, not exactly, that is the wrong word—he showed us the limb of a tree over which or by which he had tripped and went sprawling that night in making his way through the park to the river.

He then led us directly to the river bank just off of East Side Park and he demonstrated there how he had thrown both the bag and the pipe into the Passaic River. Photographs were taken by Sergeant Garrity during both re-enactments.

Q Now, I show you a photograph and ask you what this photograph represents.

A This photograph depicts William Monks leaning up against the tree, the tree that he pointed out to us as being the one that he hid behind on that night in February of '56 just before the assault on Miss Weiss.

Q And this was taken, you say, by Sergeant Garrity, a member of the Paterson Police Department?

A Yes, sir.

MR. JOELSON: I offer this in evidence.

* * * *

[fol. 97] MR. RUBENSTEIN: We would also object on the ground that there is no proof before this Court that this is in the nature of a confession. This is an action on this William Monks' part, there is no evidence that it was voluntary, that he was notified of his constitutional rights against self-incrimination or providing any evidence which might be used at the time of trial against him.

[fol. 98] THE COURT: You may cross examine the witness as to that.

BY MR. RUBENSTEIN:

Q Mr. Ventimiglia, prior to the time this picture was taken, or may I first ask you, on what day was this picture taken?

A This was taken, I believe I said February 27. That is correct, Wednesday morning, February 27, 1957.

Q You had been there the previous day with him?

A I had been there, that's right, the previous afternoon.

Q Now, before this picture was taken, what was said to Mr. Monks at all concerning any of his constitutional privileges?

• • • •

A Nothing at this time. However, the statements had been taken the evening before and at that time County Detective DeSimone in the taking of both statements apprised William Monks that anything that he did say would have to be voluntary and the truth.

[fol. 99] Q Tell me as close as you can the exact words that Mr. DeSimone said.

A I would only be guessing, sir. The statement itself—

• • • •

Q Did you hear any advice given to William Monks concerning that he had a privilege not to disclose any statement?

A Well, not the exact words but in effect—

Q What were the words?

A I don't recall but I think in effect he was told that anything he did say woud have to be voluntary and the truth and may be used against him.

Q And that was to anything he might say?

A That is correct.

Q Approximately what time was that said to him?

A At approximately 12:40 a.m.

Q A.M.?

A Yes.

[fol. 100] Q Prior to that had anything been said to him in your presence concerning any of his constitutional privileges?

A Well, prior to that we had previously taken the statement regarding the Weiss matter and he was then advised of the same thing that I just said.

Q Approximately what time was that?

A 10:30 p.m.

Q Now, you had been with the Monks boy how much prior to 10:30?

A How long, did you say?

Q Yes, prior to 10:30.

A Around 6—well, I had been with him from 4:30 on.

Q From 4:30 in the afternoon? You had been with him from 4:30 on? Were you in his presence at all times from 4:30 on?

A In his presence at all times excepting the time that he was put on the lie detector tests.

Q You were also not present during the time that Mr. DeSimone was in the room—

A With Mr. Arther.

Q And starting with 4:30 you first met him in what room?

A In the Grand Jury room itself.

Q How long did you continue in the Grand Jury room?

A We were there for maybe a half hour and then we took him in the car and we went up to the area around the hospital.

Q Now, from the time you got to the Grand Jury room to the time you went into the car, when you got [fol. 101] there was Monks already in the Grand Jury room?

A I was in the Grand Jury room when Monks was brought into the Grand Jury room.

Q Was Detective DeSimone with you in the Grand Jury room?

A Yes, sir.

Q Was anything said in the Grand Jury room concerning Mr. Monks' constitutional privileges at that time?

A No.

Q So that there was nothing said to him prior to that previous statement you had given to him?

A I don't understand. What previous statement?

Q You said when he came into the Grand Jury room he told you about the Weiss case.

A That is correct.

Q But there was nothing said to him concerning his statements before he started the statements?

A No, there wasn't.

Q Nothing at all?

A Except that—

Q I mean concerning his constitutional privileges.

A Oh, no.

Q Now, you went with him up to East 81st Street, as you have described.

A Yes.

Q Was anything said to him at that time concerning any of his constitutional privileges?

A No.

Q You returned to the Court House?

A Yes.

Q Where did you go with him?

[fol. 102] A I went into the Grand Jury room.

Q With him?

A I think so, yes.

Q Approximately what time did you get to the Grand Jury room?

A I would say sometime after 6:00 o'clock.

* * * *

Q Yes. Now, will you repeat what time you got back to the Court House again?

A Sometime after 6:00 p.m.

Q After 6:00 p.m.?

A Yes.

Q What room did you go to?

A To the Grand Jury room itself.

Q Was Monks with you?

A Yes, he was.

Q And how long did you stay in the Grand Jury room with Monks?

A Oh, maybe 15 or 20 minutes.

Q In that 15 or 20 minutes was anything said to Mr. [fol. 103] Monks concerning his constitutional privilege against self-incrimination?

A No.

Q After that 15 or 20 minutes, where did Mr. Monks go?

A I believe that he was put back on the Polygraph.

Q In other words, he went out of the room that you were in?

A Yes.

Q Who accompanied him out of the room?

A Mr. Arther, I think, took him in there.

Q You could not hear what went on?

A No, sir.

Q Approximately how long was he in this room with Mr. Arther?

A I would say about a half hour.

Q That would bring us to approximately what time?

A Let me check, please. I have to change that. I was wrong on that time. I believe it was after 7:00, about 7:30 when he was brought back into the anteroom for the test on the Polygraph.

Q Well, so that I understand this clearly, Mr. Ventimiglia, you came back from your trip to the East 31st Street area about when?

A Sometime after 6:00.

Q Sometime after 6:00. So from sometime after 6:00 until 7:30—sometime after 6:00 he remained at the room about 15 minutes, is that correct?

A No, I'm wrong. When we returned from the trip [fol. 104] we were all in the Grand Jury room and it was nigh onto 6:30, approximately. We made arrangements to get some food and somebody went out and got the food, and my notes show that the food—that County Detective DeSimone and Detective Meola went for the sandwiches at 7:00. They returned about a half hour later.

Q All during that period was Monks with you?

A No. That is what I am trying to clear up. It was during that interval that Monks was brought back into the anteroom and given another test by Mr. Arther.

Q So from the time you returned from this trip to the East 31st Street area, which was a little after 6:00, between 6:00 and 6:30, until the time you went into the anteroom where Mr. Arther was, you were with him at all times?

A With the boy, yes.

Q And nothing was said to him during that period concerning his constitutional privileges?

A No.

Q Then he went to the anteroom with Mr. Arther, and approximately how long did he remain in there?

A Well, he was in there approximately—he was permitted to eat—I would say he was in there about a half hour.

Q A half hour?

A Yes.

Q Does that include the period in which Mr. DeSimone was in there with him?

A I am not too sure on that, whether the Detective [fol. 105] returned in that period or at the end of that half hour that I am speaking of.

Q But whatever it was, then Mr. DeSimone went into the room with Mr. Arther?

A Yes.

Q You did not accompany him?

A No.

Q You could hear nothing that was said?

A No, sir.

Q Approximately what time did you again see Monks?

A A little after 8:00.

Q A little after 8:00?

A Yes.

Q Where did you see him?

A He was brought into the Grand Jury room.

Q So from the time he went in with Mr. Arther until the time he was brought back to where you were, you did not see him?

A No.

Q He was with Mr. Arther?

A That is correct.

Q Mr. Jarmolowicz was not with him?

A No.

Q He was with you in the anteroom?

A No, not with me in the anteroom.

Q In the Grand Jury room?

A Yes.

Q He was with you in the Grand Jury room?

A Up until the time he was taken in for that test.

Q When he was taken in for that test, Mr. Jarmolowicz remained with you?

A He did, yes.

Q Now, when the boy came back this was a little after 8:00?

A Yes.

[fol. 106] Q You remained in that room for how long?

A In the anteroom?

Q Well, you were in the Grand Jury room. He was brought back into the—

A Which room are you trying to—

Q You told me before that he went someplace with Mr. Arther.

A They were in the anteroom.

Q Until approximately 8:00 o'clock?

A Yes.

Q And then he was brought back into the Grand Jury room where you were?

A Yes.

Q After that how long did he remain in the Grand Jury room?

A I would say up until shortly before 10:30, shortly before 10:30.

Q From that period, from 8:00 o'clock when he came back to the Grand Jury room until 10:30, was anything said to him about his constitutional privilege?

A No.

Q At 10:30 where was he taken?

A I believe we went to the Court Chambers of Judge Hinchliffe's Court, I believe. I am only guessing on that. I know it was in the Judge's Chambers.

Q Is that where this statement was taken?

A Yes.

Q Then for the first time you say something was [fol. 107] said about his constitutional privileges?

A Yes.

Q Now, from the time you first saw the boy at 4:30 until the time you said this statement was made, did you say anything to this boy in order to induce him to make a statement concerning the two matters under investigation?

A To induce? I don't know what you mean by "induce."

Q Did you say anything to him to try to convince him to make a statement?

A I simply said to him that the Weiss matter—of course, we were taking the Weiss matter first of all—that he had indicated to us—my answer is yes. May I go into—

Q What did you say to him?

A I am going to tell you. That he had indicated to us when we first spoke to him that it had been snowing on the night of February 24, 1956, and it was my belief that he knew a lot more about that specific assault on the Weiss woman. That is what I said to him.

Q Was this for the purpose of convincing him that he ought to tell you more?

A No. It was for the purpose of convincing him—not convincing him, but showing him that we were interrogating him along those lines in that he had indicated that it had been snowing that night and he was a suspect of purse snatching.

Q Did you tell him it would be better if he told the truth?

A I did not.

[fol. 108] Q Did you hear anybody say that?

A Nobody.

Q Did you tell him that if he didn't confess what he had done that the people would think he was a hardened criminal?

A No, sir.

Q Did you hear anyone say that?

A Nobody said that.

Q So there was nothing said as far as you said or heard on the times you were with him concerning why he should tell the truth?

A No.

MR. RUBENSTEIN: I have no further questions at this time of this witness, but in going to the question of the voluntariness, sir, I would like to have Mr. DeSimone called.

MR. JOELSON: We intend to produce him.

MR. RUBENSTEIN: I think before the question of the introduction of these things into evidence is completed, this is preliminary on the question of the voluntariness.

MR. JOELSON: Then I would like to have Mr. Jarmolowicz sworn also.

VINCENT DESIMONE, being first duly sworn, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. JOELSON:

[fol. 109] Q Your name, please.

A Vincent DeSimone.

Q Mr. DeSimone, are you a County Detective of Passaic County?

A I am, sir.

Q And were you assigned to the investigations of the Naomi Weiss assault and the Giovanna Giambra assault?

A Yes, sir.

Q Now, I show you S-5 marked for identification and I ask you if this contains a true transcript of questions asked by you and answers given to you by William Richard Monks on February 26, 1957.

MR. RUBENSTEIN: I am going to object to that question. He was only called for the purpose of a preliminary examination as to the voluntariness of it, not as to the authenticity of it.

* * * *

MR. JOELSON: Well, if your Honor pleae, I am going to attempt to offer these statements in evidence.

THE COURT: But we interrupted the Detective to just have Mr. DeSimone come on and he was called, I understood, by Mr. Rubenstein.

[fol. 110] MR. JOELSON: I will let Mr. Rubenstein take over.

BY MR. RUBENSTEIN:

Q Now, Mr. DeSimone, I call your attention to the 26th of February, 1957. About what time of the day did you first see William Monks?

A I first saw him at approximately 10:00 o'clock in the morning.

Q Where did you see him?

A He was brought to the door outside the Prosecutor's office and I walked up to the Grand Jury room with him.

Q Did you remain with him?

A No. We turned him over to Mr. Arther who arrived a short time after and Mr. Arther proceed to test him.

Q As you walked up with him did you have any conversation with him at that time?

A None whatsoever.

Q And you left him up with Mr. Arther?

A That is correct.

Q And Mr. Arther was in the room by himself?

A Yes.

Q In which room?

A In the anteroom of the Grand Jury room. He had his equipment set up.

Q Who was with you when you took him from the Prosecutor's office up to Mr. Arther?

A Well, Detective Sergeant Ventimiglia and Detective [fol. 111] Meola who worked on this case with me were either with me or in the immediate vicinity.

Q This is the morning?

A In the morning.

Q Was Mr. Jarmolowicz there in the morning?

A And Mr. Jarmolowicz was with us throughout the entire investigation. He was with us.

Q He was right with you when you took him up to Mr. Arther?

A If he wasn't with us he was there when we got upstairs. They were en route upstairs with him and I walked along.

Q You said nothing at that time to Mr. William Monks at all?

A Nothing.

Q When did you next see William Monks on that day?

A I judge that he was in there between one and a half to two and a half hours.

Q That would place it approximately around noontime?

A Around noon, in around noon or shortly thereafter.

Q And where were you during this period?

A We were either sitting out in the hallway or in the Grand Jury room. They kept that door secured.

Q When he came out were you there?

A Yes.

Q Did you remain with him?

A I believe the next thing we did was to obtain food for him because it was near lunch hour.

Q Did you remain with him while the food was obtained?

[fol. 112] A I believe we all ate together.

Q You didn't go out for the food at that time?

A I might have. I don't believe I did at lunch hour.

Q Did you say anything to him about the case at that time?

A Nothing whatsoever.

Q Did anyone have any discussion with him?

A No one said anything to him.

Q Where did you have lunch?

A In the Grand Jury room. Food was brought in and we had coffee and sandwiches right there.

Q After the lunch was finished, did you continue in the Grand Jury room?

A Well, then there was a delay and we allowed him to sit over in a corner and we conferred with Mr. Arther and as a result Harry Ogg was brought in at approximately 2:30.

THE COURT: What day is this?

MR. RUBENSTEIN: This is still the 26th, February 26th.

Q You say Harry Ogg was brought in. So from the time he finished his lunch until 2:30 when Harry Ogg was brought in, did you have any conversation with William Monks?

A None whatsoever.

Q Did anyone have any conversation with him?

A No.

Q Then Harry Ogg was brought in?

A Yes.

[fol. 113] Q Approximately how long was Ogg there?

A I should judge 20 minutes to a half hour. He was tested—

Q 20 minutes to a half hour he was in with Mr. Arther?

A That is correct.

Q All during this period did anyone talk to Mr. Monks?

A No one.

Q You were in the room with him, is that correct?

A Yes.

Q Then when Ogg came out, where were you and where was—

A We brought Willy Monks into the room after Ogg's test had been completed and confronted Monks with Ogg.

Q So you brought him into the room?

A That's right.

Q Up until this point you had said nothing to Monks concerning the case?

A No, sir.

Q. Had you said anything to him about his constitutional privileges?

A No, sir.

Q Had you ever said anything prior to that date to Willy Monks concerning his constitutional privileges?

A Prior to that I hadn't said anything to him at all. I might have said, "Hello, Willy," but I hadn't said a word to him.

Q So the first time you had conversation with him [fol. 114] was on the 26th?

A That's right.

Q Then he went into the room with Ogg. How long was he in the room with Ogg?

A Just a few minutes. We confronted him and Ogg repeated what he had told us, and that was it.

Q And then what did you do with Monks?

A Then I believe Mr. Arther conducted another short test.

Q Of whom?

A Of William Monks.

Q Were you in the room when he did so?

A No. All the time when he conducted these tests he was alone, and perhaps there is something else I could make clear, after the first test that Mr. Arther conducted, which was on Thursday, February 21, he requested that no one interrogate William Monks until he had a chance to carry out further tests, and that request was abided by. No one spoke to him at all.

Q You had no conversation with him?

A No.

Q So now we are at the point in the afternoon where he is once again in with Mr. Arther.

A That's right.

Q You waited where?

A Either in the hallway or in the Grand Jury room.

Q In the approximate vicinity?

A Yes.

Q He was in there approximately how long?

A Not too long. I should judge a half hour or less.

[fol. 115] Q When he came out did you have a conversation with him?

A Yes. When he came out, as a result of what Mr. Arther told us we began questioning him for the first time since before the previous—

Q Approximately what time was that?

A Well, it must have been around 3:30 or 4:00 o'clock, thereabouts, and at that time he described—

Q That is when you started to interrogate him, is that correct?

A Well, the interrogation, I say, didn't last no longer than a half hour to three-quarters of an hour, and at 4:00 o'clock, I believe it was, that is the first time that he told us any story about any assault on Miss Weiss.

Q You had discussion with him then, some discussion?

A Yes, we interrogated him.

Q Starting at 3:30 until when?

A Until 4:00 o'clock, I would say, approximately.

Q Until 4:00 o'clock?

A Yes.

Q And at 4:00 o'clock—

A Or shortly thereafter.

Q And at 4:00 o'clock you went where? Were you with him at all times?

A Yes.

Q Were you with him at all times between 3:30 and 4:30?

A Yes.

Q Were you in a position to hear what would be [fol. 116] said to him by anyone during that time?

A Definitely.

Q Then from 4:30 on where were you?

A Well, immediately after his relating the story of the Weiss assault we proceeded—

MR. RUBENSTEIN: I ask that that be stricken. It is a voluntary statement on this witness' part. I am asking him from 4:30 on what he did.

Q From 4:30 what did you do?

A We proceeded to the vicinity of the Barnert Memorial Hospital.

Q And how long were you away from the Court House?

A I should judge from a half hour to an hour.

Q So that would make it or bring it to approximately 5:30?

A Approximately.

Q All during that period were you with him?

A Yes, sir.

Q Were you in position—

A Except for a short time when I was digging and he was sitting in the car.

Q Other than that short period of time, you were always in a position to have heard anything which might have been said to him?

A Yes.

Q At 5:30 you returned to the Court House?

A Approximately 5:30.

Q You immediately returned to the Court House from wherever you were?

A Yes, sir.

[fol. 117] Q To where did you go in the Court House?

A Back up to the Grand Jury room.

Q Back up to the Grand Jury room?

A Yes.

Q How long did your remain in the Grand Jury room?

A I should judge—well, we remained there eventually until after 9:00.

Q Did he remain from 5:30 on? How long did he remain in the Grand Jury room?

A Until approximately 6:30.

Q Were you with him at all times from the time you went to the Grand Jury room until approximately 6:30?

A Yes, sir.

Q Were you in position to hear everything that could have been said to William Monks during that period?

A Yes. Well, I left for a short time to make arrangements to have Stopford brought in.

Q About how long were you gone?

A I would say five to ten minutes.

Q Other than five to ten minutes you were always there?

A That is correct.

Q At 6:30 what happened to Monks?

A At 6:30—

Q Approximately 6:30.

A At 6:30 Stopford was put on the test.

Q Where was Monks?

[fol. 118] A He was in the Grand Jury room and these tests were conducted in the anteroom, which is right beside the Grand Jury room.

Q You were with whom?

A We let Monks sit there and I believe I walked out and was talking to Mr. Arther making the necessary arrangements, then I might have been either in the hallway or in the room—

Q Was anybody talking to Monks during that period?

A There might have been—

Q There were others in the room with him?

A Well, there might have been but I don't believe there was any interrogation for that short period.

Q Who was in the room, if you know?

A Well, if anyone was there, Detective Sergeant Ventimiglia, Detective Meola and Probation Officer Jarmolowicz. We were there throughout the day.

Q And then what time did you go back—

A Well, approximately I should judge about 20 minutes later William Monks was confronted by Robert Stopford.

Q You were in the room?

A I was in the room.

Q You could hear what was going on?

A I was doing some of the talking.

Q How long did that go on that Stopford was there?

A Just a few minutes.

Q After Stopford left, did Monks continue to stay [fol. 119] in the Grand Jury room?

A Yes, he did.

Q Were you with him?

A I was.

Q For approximately how long did he remain in the Grand Jury room?

A I interrogated him for approximately a half hour.

Q And you could hear everything that was said to him during that period?

A I was speaking to him.

Q And at the end of that half hour, what happened to Monks?

A At the end of that half hour I ceased questioning him and told him I was going to get some food for him and asked him to sit over in the corner of the room.

Q And then you went out for food?

A Then I went out for food.

Q Approximately how long were you gone?

A Ten, fifteen minutes, maybe twenty minutes.

Q Where was Monks when you came back?

A They summoned me from the place where I went for the food—

Q You came back and where was Monks when you came back?

A In the anteroom of the Grand Jury.

Q In the anteroom of the Grand Jury?

A Yes.

Q With whom?

A With Mr. Arther.

[fol. 120] Q Then you were subsequently called into the anteroom?

A Yes, sir.

Q And who was in the anteroom when you went in?

A Mr. Arther and William Monks.

Q You could hear everything that was said at that time?

A Mr. Arther spoke to me.

Q You could hear anything that was said to Monks?

A Yes, sir.

Q About how long were you in there?

A Ten to fifteen minutes.

Q Then you went where?

A Then we went into the Grand Jury room and we ate our food.

Q You ate your food?

A Yes, William Monks, Mr. Jarmolowicz, Detective Sergeant—

Q Was there any conversation during this period with Monks concerning this matter?

A When we ate there was absolutely nothing said.

Q Had there been any conversation, you could have heard it?

A Definitely.

Q You were in position to have been able to hear it?

A Yes.

Q After you finished the lunch or the supper, what ever it was, approximately how long did you remain with Monks then?

A I should judge fifteen, twenty minutes.

(fol. 121) Q Interrogating him during this period?

A He related certain things.

Q Were you interrogating him during this period?

A Yes, I was. Perhaps longer. I would say a half hour.

Q Of interrogation. After that half hour of interrogation, then what happened?

A Then we made preparations to have a stenographer brought in.

Q Approximately how long did it take for the stenographer to get there after this half hour?

A I would say close to a half hour to an hour.

Q During this period were you with Monks?

A I was.

Q Did you hear everything that was said to him?

A Yes.

Q And then the stenographer came?

A Yes.

Q Now, prior to that time had you at any time advised William Monks concerning any constitutional privileges or rights he might have?

A I did.

Q When for the first time?

A Immediately after we had eaten and I interrogated him, he related certain facts to me. I then said to him, "William, we are going to ask you to give us a voluntary statement. You may do so or not, just as you wish. Everything you say must be of your own free will without any promise of reward or threats having been made (fol. 122) to you, and, as you know, it will be taken down in writing and anything you say may be used against you at a trial. Do you agree to give such a statement?" He said, "Yes, sir, Mr. [illegible]."

Q Approximately what time would that be?

A Sometime after 9:25. Well, it was around 9:30 that we had finished eating and then the interrogation took place for perhaps fifteen or twenty minutes, and then this conversation took place and then arrangements were made to bring in a stenographer.

Q So then.

A It was between 9:30 and 10:30.

Q And that was the first time you had told him anything about his constitutional rights?

A Yes.

Q Now, Mr. Robinson, starting at approximately 8:30 a.m. you were interrogating this boy, were you not?

A Yes, sir.

Q Did you have conversation with him concerning why he should tell the truth?

A No, sir.

Q Did you tell him that you could prove it whether he made a statement or not?

A No, sir.

Q Did you say to him that if he didn't confess the people would thing he is a hardened criminal?

A Definitely not.

MR. RUBENSTEIN: I have no further questions of this witness.

MR. MOLLISON: Your Honor, I have no more questions of Detective Robinson, but again I want to try to get my statement into evidence. I would like to ask him a few questions in order to

THE COURT: Suppose we get the other witness on and do it in an orderly fashion.

PETER VENTIMIGLIA, resumed the stand, testified further on his oath as follows:

MR. MOLLISON: I believe when we left off, your Honor, there was an objection to this picture that was taken the following morning, February 27.

THE COURT: Yes.

MR. RUBENSTEIN: I still object to it, sir, because there is no proof of voluntariness or that he understood that this picture could be used. The only thing that has been testified to is that he was told that anything he might say might be used against him. There is absolutely no proof that he was advised of any privilege that he might have. After all this is a youth and no indication that he was told to do certain things.

THE COURT: What is the rule on an adult as far as a confession is concerned?

MR. JOHNSON: My understanding, your Honor, is [fol. 121] that an oral confession is in the nature of an exception to the hearsay evidence rule as being an admission against interest and as such is admissible in evidence. It is as simple as that.

THE COURT: Well, that is an oral statement. Now, as far as an adult is concerned—

MR. JOHNSON: Yes.

THE COURT: That is as far as an oral statement and an adult. Now, is there any authority to the effect as far as a juvenile is concerned that a different rule should prevail?

MR. RUBENSTEIN: Well, the question of the adult, youngster or juvenile is the question of the mental capacity to realize what he is doing.

THE COURT: Yes. That is on the offense itself, but let's start off with the rule of law regarding oral admissions, confessions or what have you.

MR. RUBENSTEIN: May I make a suggestion to your Honor? I do not have the cases with me and this case will evidently go into tomorrow, so may we continue with marking all of these pictures for identification and then we can argue the first thing in the morning?

THE COURT: No. You can renew your argument if you want to, but I am going to admit the documents if they are offered because I don't hear any legal reason [fol. 122] advanced why I shouldn't admit them.

MR. RUBENSTEIN: Because there is a privilege against self-incrimination, that the man must be advised that he has a right against self-incrimination before it can be voluntary on his part.

THE COURT: What is the law? What do the cases hold in New Jersey on that point?

MR. RUBENSTEIN: I believe that is what the cases hold, but I am not in position. I haven't the cases with me and I am not in position to give you any citation at this time. That is why I made the suggestion, sir, for the expediency of the trial to mark all of these for identification and if by tomorrow either the Prosecutor can show the cases which might hold that they are admissible or we can show the cases that hold they are not, your Honor could then rule on the admissibility of them without the necessity of recalling Detective Ventimiglia.

MR. NELSON: I would like to point out two things to the court. First, I think it is admitted by all concerned that at all times during questioning Mr. Monks had with him a court appointed representative, not a lawyer, but a representative whose duty it was to make sure that there was no pressure of any kind on this boy and that the man was with the boy.

[illegible] THE COURT: Excuse me for stopping you at that point, but that doesn't clearly appear on the record, but it will, but I am directing your attention to the general rule with respect to confessions and it is simply, is it not, that it must be voluntary?

MR. NELSON: That's all. That is my understanding, plus the fact, if your Honor please, that these statements marked for identification I represent to the court will show that the boy was advised of his constitutional rights and it was after this that these pictures were taken, the following morning.

MR. RUBENSTEIN: May I ask Mr. DeSimone one or two more questions?

THE COURT: Go right ahead. You are excused temporarily, Mr. Ventimiglia.

VINCENT DeSIMONE resumed the stand, testified further on his oath as follows:

BY MR. RUBENSTEIN:

Q Mr. DeSimone, at any time in this questioning did you have a father and son talk with William Monks?

A I did, sir. Well, it was an interrogation, you might characterize it as such.

Q What did you say to him?

A Well, in essence I told him, and incidentally, I did this, repeated this interrogation for the benefit of Mr. Evans in the very room, after the last hearing in this court room. One of the first things I said to him, I said, "Willie, don't snow me." Evans stood out of his mouth was, "Man, man, man, man." And then I said, "Look me in the eye, Will. Honest people look each other in the eye when they are telling the truth." And, incidentally, it was in a low tone of voice and Mr. Jarmolowicz was sitting no more than two feet away from me, from us. We were all in a huddle. I said, "Will, I believe you committed this crime. If you didn't do it, don't admit it, don't tell me you did, but if you did, Will, tell me the truth," and then I went into various things such as, "Willy, if you did do it you can fool everybody but you can't fool God and you can't fool yourself," and I carried on, I went into various aspects of the case, the facts of what Stopford had told us, of what Ogg had told us, his general demeanor throughout and the early investigation up here in the Shelter, and I truthfully told him that, "You yourself admitted without me asking you a thing—" I mean, we didn't go into detail of that first interrogation because at that time—this is included in that conversation. We were asking him about other purse snatches in the general area, so I started—we were trying to refresh his recollection as to other purses he might have taken and we started with 25th, 26th, 27th, 28th, 29th, 30th, and when I said 31st he says, "I didn't hit (fol. 128) that woman." I said, "What woman?" He said, "The woman that was hit by the hospital." I continued to 32d. I said, "When did that happen?" He said, "About a year ago."

I continued to 32d, 33d, Wall Avenue. He said, "I didn't hit that girl." I said, "What girl?" He says, "The Gramling girl." I said, "When did that happen?" He says, "November 12th," and then it carried on into other sort of fatherly talk, if he did do it, confess, if he didn't do it, "I don't want you to confess it."

Q. What exactly was said during this so-called fatherly talk?

A. Well, that general conversation.

Q. Was anything said about the fact that if he didn't admit it and it was proved what would happen to him?

A. No, definitely not.

Q. And that if he confessed, if he admitted it, what would happen?

A No, sir, none of the consequences of it.

Q Nothing was said about being considered a hardened criminal?

A Nothing whatsoever. There was one other little phase I said, and I don't know exactly how I worded it, but it was in essence, "If you did it, confess it, you will feel better for it and everyone in general." I can't think of the exact words but I went over the entire interrogation. When I am sitting talking to someone heart (fol 129) to heart I can do a better job than I can do here.

Q How long did this heart to heart talk take?

A I should judge twenty minutes, a half hour or less.

Q And was it after this heart to heart talk that he told you this story?

A No. Then I told him, I said, "Willy, no one is going to speak to you at all. Go over and sit in that corner and you search your conscience. Willy, I am going to go out for food. What do you want to eat?" and I took down his order, what he wanted to eat, and I said, "Sit over there now and just search your conscience and think of what you want to do," and then I left.

Q When you came back?

A I was summoned back, they came running for me. Detective Meade came running across the street and said to me, he said, "Mr. Monks wants to talk to you."

Q You spoke to him again?

A When I came back Mr. Arthur asked me to come into the anteroom, he said, "William told me he wants to speak to you alone." He left and I sat down.

Q And you spoke to him alone at that time?

A Yes, I did.

Q Did you have any more of this fatherly discourse?

A He did all the talking then.

MR. RUBENSTEIN: No further questions.

(fol 130) MR. JOHNSON: I renew the offer of the picture in evidence.

MR. RUBENSTEIN: I object.

THE COURT: I will note your objection and let it be marked.

(Photograph received and marked Exhibit 6.)

PETER VENTIMIGLIA, resumed the stand, testified further on his oath as follows:

DIRECT EXAMINATION.

BY MR. JOELSON (Continued):

Q I show you another picture and ask you what this represents. By the way, was this picture also taken on the morning of the 27th by—

A Sergeant Garrity.

Q (Continuing) —Sergeant Garrity?

A That is correct. This depicts William Monks pointing to a spot alongside the gutter. I believe it is 15th Avenue, I am not sure of the exact corner.

MR. RUBENSTEIN: I object to his reading the back of that, sir.

A (Continuing) Well, I don't recall the exact corner but he is indicating here where he found the weapon which he used. Jarmolowicz is in the photo and so am I.

* * * *

(fol. 131) MR. EVERS: Your Honor, we object for the same reasons that have already been stated in reference to the previous exhibit, S-7. We object to the admission into evidence of this on the same grounds.

THE COURT: All right. Your objection will be noted and it will be marked in evidence as S-8.

(Photograph, received and marked Exhibit S-8.)

Q Now, I show you another picture and I ask you when this was taken.

A This was also taken the morning of February 27. It depicts William Monks pointing to an excavation here, I think it is Park Avenue and East 31st Street where the new apartment house was going up where he threw the weapon. Probation Officer Jarmolowicz is also in the photo. That was taken on the 27th of February.

Q Where he threw the weapon?

A Where he had hidden the weapon. I'm sorry. After the Weiss matter.

MR. JOELSON: I offer this.

MR. EVERS: Same objection on the same grounds.

THE COURT: All right. I will note the objection and let it be marked in evidence.

(Photograph, received and marked Exhibit S-9.)

Q I show you another picture and ask you when that was taken.

A This depicts William Monks.

(fol. 132) Q When was it taken?

A The same morning, February 27, 1957.

Q Who is on this picture?

A In the photo Detective DeSimone, William Monks and myself. It depicts William Monks pointing to the spot alongside the Barnert Hospital where the assault on Miss Weiss took place.

MR. JOELSON: I offer this in evidence.

MR. EVERS: Could I say in connection with Detective Ventimiglia's statement regarding what it allegedly depicts, that when you say it depicts where the Weiss assault took place, you mean it depicts where he told you it took place?

THE WITNESS: That is correct.

MR. EVERS: Same objection for the same reasons.

THE COURT: Same ruling.

(Photograph, received and marked Exhibit S-10.)

MR. RUBENSTEIN: May we say that the objection will be to this entire line of pictures so that we don't have to keep repeating it on the record?

THE COURT: All right. Just object and I will rule.

Q I show you another picture. When was this picture taken?

A This was also taken the morning of February 27, 1957.

Q Who is on that picture?

(fol. 133) A In the photo Probation Officer Jarmolowicz, myself, County Detective DeSimone and William Monks. He is at the door of the furnished room house at the corner of 13th Avenue and East 31st Street. It is indicating how he entered the door of this furnished room place after the Weiss assault.

MR. JOELSON: I offer this in evidence.

MR. EVERS: Same objection.

THE COURT: It will be marked.

(Photograph, received and marked Exhibit S-11.)

Q I show you another picture and ask you when this was taken and who is on the picture.

A This was also taken on the morning of February 27, 1957. In the photograph are William Monks and Probation Officer Jarmolowicz. It was taken in the bathroom of the furnished room house at the corner of 15th Avenue and East 31st Street.

MR. JOELSON: I offer it in evidence.

MR. EVERS: I object on the same grounds previously stated.

THE COURT: Same ruling.

(Photograph, received and marked Exhibit S-12.)

Q I show you another picture and ask you when it was taken and who is on the picture.

A This is another picture taken on February 27, 1957. In the photograph William Monks and Probation Officer Jarmolowicz. Taken at the rear of the furnished room (fol 134) house, 15th Avenue and East 31st Street. It shows William Monks pointing into the garbage bin at a garbage barrel where he disposed of the package that he took from Miss Weiss.

MR. JOELSON: I offer that in evidence.

MR. EVERS: Detective, I assume you mean he is pointing to the barrel where he said he disposed of the package?

THE WITNESS: That's right.

MR. EVERS: Same objection.

THE COURT: Same ruling.

(Photograph, received and marked Exhibit S-13.)

Q I show you another picture and ask you when this was taken.

A February 27, 1957. In the photo Probation Officer Jarmolowicz, myself and William Monks. It shows the corner of 13th Avenue and Wall Avenue.

Q What does it depict?

A It depicts William Monks looking south on Wall Avenue, indicating that was the position he took the night of the assault on Giovanna Giambra.

MR. JOELSON: I offer this in evidence.

MR. EVERS: Same objection, if your Honor please.

THE COURT: Same ruling.

(Photograph, received and marked Exhibit S-14.)

Q I show you another photo. Was that also taken on February 27th?

[fol. 135] A The same day, February 27. In the photograph Probation Officer Jarmolowicz, myself and William Monks and he is pointing to a spot on the sidewalk on Wall Avenue at which point he accosted the Giambra girl.

Q What do you mean by "at which point he accosted the Giambra girl"?

A That is the point where he walked towards her and from that point, she fled.

MR. JOELSON: I offer this in evidence.

MR. EVERS: Detective, is this the spot at which he told you the girl had reached as she was walking on this street?

THE WITNESS: That's right.

MR. EVERS: Same objection.

THE COURT: Same ruling.

(Photograph, received and marked Exhibit S-15.)

Q I show you a picture and ask you when this was taken?

A February 27, 1957. In the photograph Probation Officer Jarmolowicz, myself and William Monks. It depicts Monks pointing to a spot in the roadway where he struck Miss Giambra, where she fell in the roadway.

MR. JOELSON: I offer that in evidence.

MR. EVERS: Same objection.

THE COURT: Same ruling.

(Photograph, received and marked Exhibit S-16.)

Q And lastly I show you a picture and ask you when that was taken.

[fol. 136] A This was taken on the morning of February 27, 1957. In the photograph County Detective DeSimone, Probation Officer Jarmolowicz and William Monks. It was taken in East Side Park. Monks is indicating the branch over which he tripped and fell after fleeing from the assault on Miss Giambra.

MR. JOELSON: I offer that.

MR. EVERS: Is this looking down 14th Avenue?

THE WITNESS: I believe it is, yes.

MR. EVERS: Same objection.

THE COURT: Same ruling.

(Photograph, received and marked Exhibit S-17.)

Q I show you one additional picture and ask you when it was taken and who is on it.

A This was also taken the morning of February 27, 1957. It was taken along the river bank of the Passaic River. In the photograph William Monks and myself, and Monks is pointing out toward the center of the river indicating where he threw the bag, the Giambra bag and the weapon used on Miss Giambra.

MR. JOELSON: I offer that.

MR. EVERS: Same objection.

THE COURT: Same ruling.

(Photograph, received and marked Exhibit S-18.)

MR. JOELSON: That is all, your Honor, of this witness.

CROSS EXAMINATION

BY MR. EVERS:

[fol. 137] Q Officer, when did you first meet William Monks?

A On Monday, February 18, 1957.

Q And that was here in the Shelter, isn't that correct?

A That is correct.

Q Now, do you have any knowledge as to how
he had been in custody prior to that?

A Yes, I have.

Q Will you tell us?

A He was taken into custody during the early m
ing hours of February 16.

Q What day of the week was that?

A That would be early Saturday morning.

Q So therefore it was on a Monday afternoon
you saw him?

A That is correct.

Q Now, will you tell the court what you know al
the circumstances under which he was taken into c
tody?

A On the early morning of the 16th he was ta
into custody by Detectives Meola and Spazante. T
were, of course, investigating two purse snatches t
happened. Do you want me to go into all this?

Q Well, do your know whether they took him i
custody in connection with either the Weiss or Giamb
matters?

A No, no. He was taken into custody because of t
purse snatches which took place on that Friday eveni

Q Friday evening the 15th, is that right?

A That is correct.

[fol: 138] Q Do you know where he was confined
if he was confined on the 15th?

A No. I would be guessing, sir. I wasn't there.
know that he was brought to the Police Detective Bure
and I wouldn't be able to testify properly—I know
was brought to the police station.

Q Do you have any idea how long he was confin
there?

A I wouldn't be able to tell you that, sir.

Q Do you know when he was first brought to t
Shelter?

A I believe it was Saturday afternoon. I would on
be guessing on that, too, but it was Saturday.

Q When you saw him on Monday, the 18th, wh
time of the day did you first meet him?

A 2:30 p.m.

Q And how long were you with him?

A Oh, approximately an hour.

Q What other detectives were with you?

A County Detective DeSimone and Mr. Jarmolowicz.

Q And in addition to interrogating him about these purse snatchings of the 15th, you also questioned him about the Weiss and Giambra matters, is that correct?

A No. We interrogated him as to the two purse snatches which took place that preceding Friday. As a result of the investigation conducted by someone else the two bags had been recovered, he had buried the bags. Our purpose in interrogating Monks at that time was [fol. 139] to ascertain if, No. 1, he had committed other purse snatches and possibly whether he was involved with anyone else who would use the same modus operandi.

Q Did you make any notes of your conversation with him on the 18th?

A I believe Mr. DeSimone did all the taking of notes.

Q So far as you recall, you didn't make any handwritten notes at all?

A I may have but I know that Mr. DeSimone did.

Q In any event, you don't have any in your possession now, is that correct?

A No.

Q So that the report that you have been referring to from time to time during your testimony was made up after these statements were taken, isn't that so?

A Yes. This report was made up—my part of this report was made up on February 27th in the afternoon.

Q And that report covers matters going all the way back to February 18th, isn't that right?

A It does, briefly.

Q And so far as you now recall, you didn't have any handwritten notes to refresh your recollection when you made up the report, is that correct?

A I can't say whether I did or I didn't. I more than likely did but I don't know where they are.

Q But if you had you didn't retain them?

[fol. 140] A Oh, if I took them I retained them.

Q Do you know where they are now?

A If I took them, I am not sure where they would be.

Q Well, the fact that you don't know whether they are, doesn't that suggest to you that maybe you didn't take them if it was your practice to retain notes?

A It is possible, yes.

Q It is probable, isn't it, that you didn't take any notes?

A Most always I take notes.

Q But you can't say that you took any in this case?

A No, I can't, because I haven't got them.

Q Now, do you know whether the boy was interrogated by anyone between the 18th and the 21st when you next saw him?

A Yes, he was.

Q Was he interrogated on the 19th?

A Oh, no, no. On the 19th of February?

Q Yes.

A No.

Q Was he interrogated on the 20th?

A No.

Q Did you understand my question wherein I asked you whether you knew whether he had been interrogated between the 18th and the 21st and you said yes? Did you understand that question?

A Did I say yes? I'm sorry. I might have misunderstood you.

Q So then so far as you know he was not interro- [fol. 141] gated between the 18th and the 21st, is that correct?

A As far as I know, that is correct.

Q On the 21st you met him again at the Court House in the anteroom of the Grand Jury room, is that correct?

A Yes, sir.

Q What day of the week was that?

A Thursday, I believe.

Q And what time of the day did you meet him?

A May I check?

Q Yes, indeed.

A It was sometime in the afternoon of February 21st, on a Thursday.

Q Was it as early as 1:00 o'clock?

A I have no notation as to the precise time but I have a notation as to when the boy was put on the machine in the first of three series. The first of three tests were started at 4:00 o'clock.

Q Can you tell the court for approximately how long you were in the presence of the boy on the 21st?

A Just long enought to be with the boy and Detective DeSimone and Mr. Jarmolowicz and Detective Meola and Mr. Arther—there was no conversation at all with the boy.

Q Were you at the court house when the boy arrived there?

A Yes, I think I was.

Q And were you there when he left?

A Yes. We took him back.

[fol. 142] Q And were you in his presence during the entire time he was there except for the lie detector test?

A Yes.

Q In other words, it is your recollection that during that entire period that he was in the court house on that afternoon that he was never out of your presence except when he was with Mr. Arther alone, is that right?

A That is correct.

Q Now, what was the total elapsed time, if you can recall, from when he arrived to when he left?

THE COURT: What day?

MR. EVERS: The 21st.

A The tests commenced at 4:00 and they were concluded at 5:30.

Q Was he made to wait any appreciable interval between his arrival at the court house and the commencement of the tests at 4:00 o'clock?

A No.

Q You didn't bring him down, did you?

A To the court house?

Q Yes.

A No. Mr. Jarmolowicz brought him to the court house.

Q And upon the completion of the tests at 5:30, did you bring him directly back to the Shelter?

A We stopped to see him.

Q What time did you get him back to the Shelter?

[fol. 143] A I would say that we got him back to the Shelter at the latest maybe 6:30.

Q I believe it was your testimony that on that day you didn't discuss either the Weiss or Giambra matters with him at all?

A Not on that day.

Q Nor Detective DeSimone?

A No, sir.

Q Nor Detective Meola?

A No, sir.

Q No one so far as you know?

A Not on that date.

Q Now, did you have any further dealings with him between the 21st and the 26th?

A None whatsoever.

Q Now, will you tell us again what time you first saw him on the 26th?

A Around 10:00 in the morning.

Q And that was at the court house?

A Yes, sir.

Q Had he arrived before you?

A We may have arrived together, I don't recall.

Q In any event, you didn't bring him down?

A No, sir.

Q Do you know who did?

A I wouldn't be able to say who did, no. I assume maybe that Mr. Jarmolowicz did, but I don't know that to be a fact.

Q Where was he on the 26th when you first saw him?

A In the Prosecutor's office or in that vicinity.

[fol. 144] Q Was he with anyone at that time?

A He was with Mr. Jarmolowicz.

Q Were there any police officers or detectives with him?

A No.

Q Now, were you with him continuously from 10:30 o'clock on the 26th until 1:00 a.m. on the 27th when this second statement was concluded?

A Excepting for the times he was on the machine, yes.

Q Were there any times during that interval when you were out of his hearing—let me rephrase that and say when he was out of your hearing other than those times when he was with Mr. Arther?

A Yes.

Q Will you tell us what they were?

A Well, I can't tell you precisely just when they took place, but I would have to say that during the time that we were there I wasn't always within hearing distance of William Monks.

Q Well, were there any times when he was in a different room from you other than those intervals when he was with Mr. Archer?

A No, sir.

Q Were you present when Mr. DeSimone had this heart to heart talk with him that he has testified to?

A Yes.

Q Did you hear it?

A Not too well because it was kept at a monotone and I didn't hear it all.

[fol. 145] Q In what room did that take place?

A In the Grand Jury room.

Q Will you tell the court how large that Grand Jury room is?

A Oh, three to four times bigger than this room.

MR. EVERS: Can we let the record show the approvimate dimensions of this room?

THE COURT: Go ahead.

MR. EVERS: Can we say 15 by 20?

MR. JOELSON: We will stipulate that the Grand Jury room is a large sized court room.

MR. EVERS: All right.

Q And when Mr. DeSimone had this talk—

THE COURT: Wait a minute now. It is not a large sized court room.

MR. JOELSON: It isn't the size of a court room, but there is room there for 23 chairs and there is a bench—

THE COURT: It is about 20 by 30, isn't it, Mr. Joelson?

MR. JOELSON: I would say so, yes, sir.

MR. EVERS: Can we agree it is approximately 20 by 30?

MR. JOELSON: More or less.

* * * *

[fol. 146] MR. JOELSON: My only problem now, I have one witness from New York, the lie detector man, who would be very brief, and he is about to leave tomorrow for Yale University where he is going to deliver a lecture and he won't be available until Thursday, so we will either have to produce him today or Thursday.

* * * *

RICHARD ARTHER, being first duly sworn, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. JOELSON:

Q Mr. Arther, are you connected with John E. Reid [fol. 147] and Associates in New York City?

A Yes, sir.

Q And what is your title with that organization?

A Director of the New York office.

Q What is the business of that organization?

A Conducting Polygraph or lie detection examinations and interrogations.

Q And how long have you been doing this?

A I have been doing it since 1951.

MR. JOELSON: Are Mr. Arther's qualifications admitted? I am actually not producing him as a lie detector expert anyhow so—

THE COURT: What do you mean are his qualifications admitted?

MR. RUBENSTEIN: What do you mean?

Q Mr. Arther, did you give a lie detector test to William Monks on February 26th?

A Yes, sir.

Q I understand prior to that you had given him a test also on February 21, is that right?

A Yes, sir.

Q Now, on February 26 do you recall Detective DeSimone leaving for the purpose of getting sandwiches and supper?

A Yes.

Q And in his absence did you administer a test to William Monks?

A Yes, sir.

Q And during that test did you exhibit to him a [fol. 148] key?

A Yes, sir.

Q I show you a key and ask you—

MR. JOELSON: I will say for the record that I will tie this up and I will only mark it for the purposes of identification at the present time.

THE COURT: All right.

Q Is this a replica of the key that you exhibited to him?

A I would say it is very close if not the type of key I showed to him. I showed it to him approximately—I showed to him approximately five different ones.

MR. JOELSON: I would like to mark this just for identification.

THE COURT: All right.

(Key, marked Exhibit S-19 for identification.)

Q Upon your exhibiting this key to William Monks, did he say anything to you or did he do anything when you exhibited this particular key to him?

A He claimed that he hadn't seen it previous to being shown it at this time. Actually, if you want me to explain—

* * * *

Q And as a result of that did you say anything to him?

A Yes, sir.

Q What did you say?

[fol. 149] A I informed him that he knew this was the type of key that was in the pocketbook of Miss Giambra.

* * * *

Q And what did he do or say upon this—

A He didn't say anything.

* * * *

[fol. 150] Q After you showed him the key, what was the exact conversation between you and Monks, all of it?

A Well, I said that he knew that this was the type of key that was in Miss Giambra's purse and he did not say anything, and then I talked to him anywhere from about one minute to maybe two minutes and I used the words, "you did hit her, didn't you?" and he nodded his head affirmatively, and then I asked him some other questions and he didn't say anything, and I again used the question to the extent that I asked him if he did hit her and again he nodded his head affirmatively, and I asked him some other details, and at this time he spoke for the first time in probably five minutes and said he wanted to talk to Mr. DeSimone and tell him the story.

* * * *

[fol. 151] Q At that point did you call in Detective DeSimone?

A I went out to get him, but he was still out getting food and I believe it was another five minutes or so before he came back.

Q And at that point did you leave him and Detective DeSimone in the room together?

A Yes, sir.

MR. JOELSON: That's all.

CROSS EXAMINATION

BY MR. EVERS:

Q Mr. Arther, will you demonstrate for the court what you mean when you say that he nodded in the affirmative?

A Well, to the extent that anybody nods their head in the affirmative, to me that is an up and down motion.

Q What time of the day was this?

A I would have no idea except I would guess approximately 8:00 o'clock. That is merely a guess.

Q And to your knowledge he had been in the court house since approximately 10:00 a.m., had he not?

A Yes, sir.

Q And could not that nod to which you have referred be a demonstration of weariness as well as an affirmative answer to your question?

A In my opinion, no.

Q I didn't ask your opinion. I asked, could it not have been an action on his part indicating weariness after [fol. 152] this ordeal?

* * * *

A Up until this point he had said nothing that would indicate he was physically tired and had not nodded his head previously in this manner at any time. This, I think, was the first time he had nodded his head up and down in that particular motion that day or the other day when I was talking with him.

Q Well, Mr. Arther, you had asked him the same questions previously, had you not?

A No, sir, not involving the key.

Q Well, hadn't you asked him whether or not he was involved in this case?

A Yes, sir.

Q And he had not nodded his head as you have suggested, had he?

A No, sir.

Q In other words, this was the first physical action, voluntary action on his part that might have indicated to you an assent to the proposition that he was involved, isn't that so?

A You are talking now about the Giambra case exclusively?

[fol. 153] Q Yes.

A Yes, sir.

Q You knew how old he was, didn't you?

A Yes, sir.

Q How old?

A 15.

Q He didn't utter any words on this occasion to which you have testified which would indicate an assent on his part that he was involved, did he?

* * * *

A He did not.

Q How many tests did you give altogether?

A Including both days?

Q Yes.

A You mean different periods or actually different tests?

Q Well, how many times did you use this machine on him altogether?

A I would say approximately nine or ten times.

Q You also subjected Mr. Ogg and Mr. Stopford to the test, too, didn't you?

A I gave them examinations, yes, sir.

Q How many for each of them?

A I would guess three on each of them.

Q But this boy got nine, is that correct?

A Yes, sir.

[fol. 154] Q At any time on either the 21st or the 26th did you make any statements to the boy regarding the reliability of your machine?

A Yes, sir.

Q You told him that it was infallible, didn't you?

A No, sir.

Q What did you tell him?

A I told him if he was telling the truth this would indicate that to me and if he was not telling the truth, it would indicate that to me also.

Q In other words, you told him that this thing would catch him in an untruth, didn't you?

A I didn't use those words but basically, yes, sir.

Q How many times did you tell him that?

A I imagine probably on two occasions.

Q On the 21st, the first time?

A And on the 26th.

Q And on the 26th. You testified, I think, earlier that this was a close replica of the key with which you confronted him, isn't that so?

A Yes, sir.

Q In other words, it is not a duplicate?

A I wouldn't know if it is or if it isn't. I did not mark it in any way.

Q Will you tell the court again what you said to him regarding the key?

A At which point? You mean after the test was over with?

[fol. 155] Q Well, this is while Detective DeSimone went out for sandwiches, you showed him the key, didn't you?

A I showed him several keys, yes, sir.

Q With relation to this key that has been marked for identification, what did you say to him?

A I said to him that he knew that this was the type of key that was in Miss Giambra's purse.

Q He had previously denied that, had he not?

A No, sir.

Q Well, now—

A Excuse me, yes, sir. Yes, sir, he had.

Q So you informed him that he knew it was the key, is that correct?

A Yes, sir.

Q You didn't give him a chance to say whether or not it was, did you?

A Well, I had given that chance to him previously.

Q Well, you made a categorical statement, did you not?

A After the test I did, yes, sir.

Q And his reaction to that was to remain silent and to nod his head, isn't that so?

A He remained silent at that point, yes, sir.

Q And then the next statement you made to him was also a categorical statement, was it not?

A Yes, sir.

Q In other words, it wasn't put in the form of a [fol. 156] question?

A Well, if I am asking you are you going to the movies tonight—

THE COURT: You said, Mr. Arther, to the boy, "You hit her, didn't you"?

THE WITNESS: Yes.

THE COURT: That is what you said to him?

WITNESS: Yes.

MR. EVERS: He didn't testify before—he said, "You hit her."

Q Didn't you?

THE COURT: He said, "You hit her."

THE WITNESS: Right, with the question mark on the end.

Q In other words, you intended a question mark at the end of it, isn't that correct?

A Well, it has to be because I am trying to get him to tell me—

Q But the words you used were, "You hit her"?

A If my memory serves me right, yes, sir.

Q So if you were not a perfect elocutionist possibly the question mark at the end of the sentence or statement might not have been apparent, isn't that so?

A Yes, sir.

Q You don't profess to be a perfect elocutionist, do you?

A No, sir.

* * * *

[fol. 157] THE COURT: Mr. Arther, your examination—when you use the Polygraph you refer to that as an examination?

THE WITNESS: Yes, sir, when I test the person.

THE COURT: The test had been finished?

THE WITNESS: Yes, sir.

THE COURT: Now, does the patient know that the test is finished?

THE WITNESS: Yes, sir.

THE COURT: He knows it is finished?

THE WITNESS: Yes, sir.

THE COURT: So that this conversation that you had with him was after this test?

THE WITNESS: Yes, sir.

THE COURT: How many of these tests had he been given on the 26th?

THE WITNESS: Well, I gave him—

THE COURT: You said there were nine.

THE WITNESS: That would be altogether, two days. I can quickly tell you—

THE COURT: Refer to your records, please.

THE WITNESS: Nine.

THE COURT: On the 26th?

THE WITNESS: Yes. I was mistaken. Yes.

[fol. 158] THE COURT: How long do they take? How long do they take, each one, or do they vary?

THE WITNESS: They vary. Some of them would—some of them were lasting one minute.

THE COURT: And some would be how long?

THE WITNESS: A maximum two and a half minutes.

THE COURT: Were you present with the detectives all the time that you weren't taking these tests?

THE WITNESS: No, sir.

• • • •

BY MR. EVERS:

Q How many tests were taken on the 21st?

A Three.

Q So that the total was twelve, then, is that correct?

A Yes, sir.

• • • •

THE WITNESS: I would like to check that just to make sure. Yes, twelve, sir.

BY MR. JOELSON:

Q I understand that each one of these examinations was on a different fragment or aspect of the Weiss or Giambra case?

A Yes, sir. Most of them were on different aspects.

• • • •

[fol. 159] Q Did you give the detectives any instructions after the 21st about whether or not to question this boy further?

A Yes, sir.

Q What were your instructions to them?

A Not to question him concerning the commission of these two crimes.

MR. EVERS: I ask that the word "crimes" be stricken.

THE COURT: Strike it out. You are going to renew your application with respect to the voluntary aspect of the confessions. Suppose we convene tomorrow at 10:00 o'clock.

• • • •

IN THE JUVENILE AND DOMESTIC RELATIONS COURT OF PASSAIC COUNTY

Case No. J-1359
J-1360

THE STATE OF NEW JERSEY
IN THE INTEREST OF
WILLIAM MONKS

Children's Shelter,
Wayne Township, New Jersey

BEFORE: HON. HUGH C. SPERNOW, Judge

TRANSCRIPT OF HEARING—December 4, 1957

APPEARANCES:

CHARLES S. JOELSON, ESQ.,
Attorney for State of New Jersey,

JAMES P. EVERS, ESQ., and
J. MORTIMER RUBENSTEIN, ESQ.,
Attorneys for William Monks.

[fol. 161] THE COURT: Now, Mr. Evers and Mr. Rubenstein, you were going to state your position with respect to the statements which were allegedly given by William Monks.

MR. RUBENSTEIN: That is the oral statement—

THE COURT: Yes.

MR. RUBENSTEIN: Well, we asked your Honor's permission overnight to see if we could argue some points of law on it; our position now is that we rest upon what we said yesterday. That goes to the question of the pictures which went in and the oral statements testified to by Mr. Ventimiglia.

• • • •

[fol. 165] PETER VENTIMIGLIA, resumed the stand, testified further on his oath as follows:

• • • •

[fol. 166] CROSS EXAMINATION

BY MR. EVERS:

Q Sergeant, we had I believe gotten to the point of inquiring just how long you were with William Monks in the late afternoon of February 26.

A Yes.

Q Now, it is my recollection that you had been in his presence at the Court House from approximately 10:00 a.m. on that day until 1:00 a.m. the following day, isn't that so?

A Yes.

Q And that during all that time he was within hearing distance of you and you within hearing distance of him except for certain intervals when he was with Mr. Arther alone, is that correct?

A That is correct.

Q Now, how long a period of time did it take for you and Detective DeSimone to take the boy over to the east side area on the 26th?

A I would say an hour or a little better than an hour.

Q And previous to that time he had related to you certain matters about the Weiss case, isn't that so?

A That is correct.

Q And up to that point there had been no suggestion by him of a possible involvement in the Giambra case, isn't that also correct?

A That is also correct.

Q Now, when he first related to you anything about the Weiss matter, will you tell us where in relation to [fol. 167] the Barnert Hospital he fixed the scene of the alleged assault?

A In relation to the Barnert Hospital?

Q Yes, sir.

A Alongside the hospital on East 31st Street.

Q Now, Sergeant, didn't you testify on direct examination that he had put it right toward the front of the hospital building?

A No. I said that he had indicated a spot alongside the hospital building itself not too far from the corner of Broadway.

• • • •

[fol. 168] Q Tell us, Detective, what the boy told you about the Weiss matter on the 26th prior to your going to the scene.

A As to where the assault had taken place?

Q Yes, sir.

A Alongside the Barnert Hospital on East 31st Street.

Q Now, about how far back from Broadway is the Barnert Hospital set back?

A Fifteen or twenty feet.

Q And the building is fairly deep, is it not, along East 31st Street?

A Yes. There is a new addition.

Q And I believe you testified yesterday, did you not, that he had originally told you that the assault took place toward the front or toward the Broadway side of the hospital, isn't that so?

A Maybe it wasn't clarified. He indicated that the assault had taken place on East 31st Street not too far from the corner of Broadway.

Q Well, will you check your notes, Sergeant, and see if they throw any light upon what he originally told you on the 26th regarding the place on East 31st Street where the assault took place?

A On East 31st Street alongside the hospital.

Q But not too far from Broadway, isn't that so?

A That is correct.

[fol. 169] Q Now, let me refer you to S-10 in evidence. I show you this picture which I believe you testified is a representation of where he showed you the incident allegedly occurred on the 27th. Isn't that so?

A That is correct.

Q Now, that is quite a ways back from Broadway, isn't it?

A It is.

Q Then, is it correct to say, Sergeant, that there was a decided difference in the boy's story on the 26th and that on the 27th as to where the assault allegedly took place?

A No.

Q Well, did he show you on the 26th where it allegedly took place?

A He did.

Q Now, what else did he tell you on the 26th before you went over to this general vicinity about the Weiss case?

A That he had been hiding behind a tree on the southeast corner by the nurses' home and that he had watched this woman walk on the west side of East 31st Street towards Broadway, that he had cut across diagonally out behind her and struck her.

Q Now, did he also tell you what he had done with the weapon?

A At that time he told us that he had discarded the weapon at the rear of the furnished room house at 15th Avenue and East 31st Street.

Q In other words, he told you that before you went [fol. 170] to the scene, is that correct?

A That's right.

Q And you subsequently found that to be untrue, isn't that so?

A That is correct.

Q In other words, there was a variation in the versions that he related to you on the 26th and on the 27th, isn't that so?

A That was one of the variations, yes.

Q In other words, there were several variations on what allegedly took place with regard to the disposition of the weapon?

A No. The first story was that he had discarded it at the rear of that house and then the second version was that he had thrown it into the river. There were two stories.

Q Well, what did he tell you about the article—

A You are speaking about the weapon, is that correct?

Q Now I want to inquire—he also told you that something had been buried, had he not?

A Yes. He told us at that time that he had buried the handbag with the wrist watch still in tact.

Q This was on the 26th?

A Yes.

Q Before you went to the scene?

A Right.

Q And later in that day he recanted that, did he not?

A Yes, sir.

Q As a matter of fact, did he not later on the 26th after you had visited the scene repudiate the whole story [fol. 171] that he had told you?

A He did.

Q Prior to going to the scene on the 26th had he told you about having gone into the bathroom in the house on 15th and 31st?

A Yes, sir.

Q Did he say how long he stayed there?

A I don't recall.

Q Did he tell you what he did in the bathroom?

A Yes.

Q What did he say he did?

A He examined the contents of the handbag and he removed the $30.

Q And then he left the bathroom, is that correct?

A That is correct.

Q So that it was your impression that he had been there a matter of seconds or minutes, isn't that so?

A My impression, yes.

Q In other words, a very short time?

A Yes.

Q Where were you when the boy repudiated this story which he had originally told you in the Court House on the 26th?

A Sitting in the car with him.

Q And this was while you were out doing the digging?

A Yes.

Q Did you do any of the digging yourself?

A No.

[fol. 172] Q Detective DeSimone?

A Detective DeSimone and Detective Meola.

Q Was Detective DeSimone selected for that because of his physical attributes?

A He is better with a shovel than I am.

Q What time of the day or evening was it when this repudiation of the original story was made?

A It was in that 4:30 to 5:30 visit to the scene.

Q And you then returned to the Court House, is that correct?

A Yes, sir.

Q You and Detective DeSimone continued your interrogation of the boy after that?

A No. At that precise hour when we returned Robert Stopford was there or was brought there just immediately after we got back.

Q You weren't in on the interrogation of Stopford, were you?

A I was very briefly before he was put on the machine.

Q Did this take place in the presence of William Monks?

A Our conversation with Stopford? No.

Q Then there was a time during that day when William was out of your presence, wasn't there?

A He may have been in the Grand Jury room and we were just outside in the anteroom.

Q Didn't you testify earlier that during this entire [fol. 173] day from 10:00 o'clock until approximately 1:00 a.m. the following morning there were no times when the boy was not in your presence except those periods when he was with Mr. Arther?

A I did, yes.

Q That was incorrect, isn't that so?

A Well, I was in and out of the room. I may have gone for water and he may still have been sitting in the Grand Jury room.

Q So other people could have spoken to him at times when you were not available or in his presence, is that so?

A Oh, sure. What do you mean by "other people"?

Q Any other people.

A Only the people concerned.

Q Detective DeSimone, Detective Meola, but you are not prepared to say that no one else spoke to him at any time during that day, are you?

A Oh, yes, I am.

Q Could you see him at all times?

A Except for when I was momentarily out of the room to get a drink.

Q Well, you are not prepared to say that during those times no one else went into the room, are you?

A I can say no one else other than the people that have been mentioned were there were there.

Q You don't know that of your own knowledge, do you?

A I do.

[fol. 174] Q Could you see him while you were getting a drink? Could you see the room?

A It is just outside the door.

Q Were there any times that you went to the bathroom?

A No, I didn't.

Q How about the time when you were questioning Stopford?

A That was just outside the Grand Jury room.

Q And he was in another room?

A He was in the Grand Jury room.

Q Do you know who was with him at that time?

A Jarmolowicz, Detective Meola, Mr. DeSimone.

Q Now, this interrogation of the boy extended over a total period of nine days, did it not, prior to his indicating involvement in either of these offenses?

A I don't quite understand that question.

Q When did you first see the boy?

A I first saw the boy on a Monday, February 18, at the Shelter.

Q And at that time you questioned him about the Weiss and Giambra matters, did you not?

A I did not.

Q Wasn't there some reference to Weiss or Giamba brought up at that time?

A He made the references.

Q Were you in the court room when Detective De-[fol. 175] Simone testified regarding statements that the boy made here in the Shelter on the 18th?

A My understanding—

Q Answer my question, please.

A I was, yes.

Q Did you hear Detective DeSimone say that he questioned the boy about incidents on 25th, 26th and 27th and various other streets?

A Yes.

Q And during the course of that questioning wasn't reference made to either Weiss or Giambra or both?

A By the boy, yes.

Q So that from that time on February 18—

THE COURT: Have you established, Mr. Evers, that that conversation was the 18th?

MR. RUBENSTEIN: He so testified.

MR. EVERS: He so testified.

MR. JOELSON: We will stipulate that was the 18th of February.

THE COURT: All right.

Q Now, is it correct, Detective Ventimiglia, that there was no indication by the boy until the 26th that he had been involved in either of these offenses?

A Yes.

Q So therefore he was under scrutiny—

A I'm sorry, my answer is no.

Q Did he at any time prior to February 26th admit to involvement in either the Weiss or Giambra matter?

[fol. 176] A Not an admission, no.

Q The first admission on his part so far as you know took place on the 26th?

A The first admission, yes.

Q That was eight days after the 18th, was it not?

A You are correct.

Q And so far as you know during all that time he was held in custody, was he not?

A Yes, sir.

Q And he was subjected to interrogation on the 21st, was he not?

A He was subjected to tests on the Polygraph, no interrogation by us.

Q Do you know whether he was interrogated by any other person or persons?

A Well, I said that because Mr. Arther conducts the examination; he probably uses questions when he conducts his tests.

Q Did you at any time on the 18th or the 21st or the 26th of February make any effort to get either the mother or father of this boy to see him?

A No.

Q Did you ask the boy whether he would like to see his mother or his father?

A I did not, no.

Q Did anyone ask him those questions in your presence?

A I don't believe so.

Q Did you suggest to the boy on either the 18th or the 21st or the 26th that he might like to confer with a lawyer?

A No.

[fol. 177] Q Did anyone else make that suggestion to him in your presence on any of those days?

A No.

Q Did you advise him at any time on either the 18th, the 21st or the 26th about his constitutional privilege against self-incrimination?

A I did not.

Q And it is your understanding, is it not, that no reference was made to that until the formal questions were put to him and taken down by Mr. Weberman?

A That is correct.

Q And that was after he had made oral statements to you and Detective DeSimone regarding these two incidents?

A Yes, sir.

Q Did you know on these various days how old this boy was?

A I did.

Q I believe you were also aware of the fact that he had been in custody since late on the evening of the 15th or early in the morning of the 16th, is that so?

A That is correct.

Q Now, prior to his making these statements to you regarding the Weiss matter late in the afternoon of the 26th, there were various occasions when he denied involvement in either or both of these incidents, isn't that so?

A. Yes.

Q Can you tell us how many times he denied involvement?

A I can't.

[fol. 178] Q Was it more or less than ten times?

A Well, the question, Mr. Evers, has a lot to do with the examination by Mr. Arther—

Q Why don't you just confine yourself to a direct answer to the question. Was it more or less than ten times?

A That I can't—

MR. JOELSON: Are you referring to how many times he denied it to Mr. Ventimiglia or in his presence?

MR. EVERS: Either. I am not referring to anything that took place with Mr. Arther because I assume the witness wasn't present.

THE WITNESS: That is correct.

Q But in your presence or to you was it more or less than ten?

A Three or four times.

Q Now, during this interrogation that took place on these various days the boy was accused of involvement, was he not?

A Yes.

Q Statements were made to him to the effect that, "You did it," isn't that so?

A Not quite that way, no.

Q Well, you tell us how they were made.

A As to the Weiss matter, the fact that he had in our first interview with him been able to tell us that it was snowing the night of February 24, 1956, indicated to us—

• • • •

[fol. 179] THE COURT: What was the conversation that you had with William Monks?

THE WITNESS: The conversation, not in its exactness—
[fol. 180]

THE COURT: The substance of it.

THE WITNESS: The substance of it was basically his knowledge of this—

THE COURT: Did we fix a time? Was this the 26th?

THE WITNESS: Yes, sir.

THE COURT: The 26th?

THE WITNESS: Yes. Of course, the first interview with him in the Shelter here—

THE COURT: Was on the 18th.

THE WITNESS: Yes. He had indicated then that it had been snowing that night and any interrogation or conversations later on were based on his statement that it was snowing on February 24, 1956, and that was the jumping point, jumping off point for any accusation by myself or Detective DeSimone.

THE COURT: What did you say to him? What was the conversation between you and William and Detective DeSimone on the 26th?

THE WITNESS: On the—

THE COURT: The Weiss case now.

THE WITNESS: You see, your Honor, the reason why I am hesitant is because I want the court to know that we were working with Mr. Arther. He would put the boy on the machine and certain things were done [fol. 181] such as the bag and certain reactions. I didn't want to go into all that, and then we would be guided by whatever his findings were on the machine.

THE COURT: You can still answer the question as to what you said to William and what William said to you and Detective DeSimone.

THE WITNESS: That's right. I asked him about that incident on East 31st Street and how he could remember that it was snowing that night.

THE COURT: What did he say?

THE WITNESS: And he said that he had read it in the paper or he could remember the incident.

THE COURT: What else?

THE WITNESS: And I also said to him that he had just been taken into custody for grabbing bags and that we were satisfied that there was some indication by his own statement that he knew something about this Weiss matter and that our investigation in talking to Stopford and Ogg indicated that he was responsible for the Weiss attack.

• • • •

BY MR. EVERS:

[fol. 182] Q When the boy told you something about the Weiss matter on the 26th, did you question him about the weapon?

A Only to a point after he had started to tell his story that he said he had struck her over the head with his fist, and then I interjected, I said, "Willy, this woman was taken to the hospital, she was bleeding from the head and you couldn't possibly do that with your fist." He hesitated and said then, "I hit her with a lead pipe."

Q Well, now, was there any time either on the 26th or the 27th or subsequent thereto when he told you or described to you, rather, a different type of instrument rather than a lead pipe?

A He did after that, yes.

Q In other words, there was a discrepancy in the stories that were related to you regarding the weapon, is that so?

A He first described it as a lead pipe, he gave the approximate size of it—

Q What was the approximate size that was given?

A In his first oral admission he said that it was two feet in length and about an inch and a half in diameter.

Q Do you have any idea of the weight of a lead pipe of that size?

A I most certainly do.

Q What would it be, about?

A I know it would be real heavy.

Q Would you believe the statement that he could [fol. 183] have wielded such a club or such a pipe?

A Would I believe it?

Q Yes.

A I would.

Q How heavy was this pipe in your judgment or how heavy would a two foot long one and a half inch diameter lead pipe have been?

A Quite heavy.

Q Well, tell us in pounds..

A I don't know, sir.

Q Did he subsequently describe some other kind of an instrument to you?

A He did.

Q Well, tell us what kind of instrument that was.

A Well, not exactly to me. He described it to Detective DeSimone on the night of the 26th.

Q But at least you are aware of the fact that an entirely different type of instrument was described, isn't that so?

A Well, to this effect: that he drew or there was a sketch drawn of the weapon.

Q And it was different from a two foot long one and a half inch diameter lead pipe?

A Well, it wasn't a lead pipe.

THE COURT: What was it?

MR. EVERS: I don't think he knows of his own knowledge.

THE WITNESS: I don't.

Q Were you in the room when the description was given?

[fol. 184] A Yes. He made a description—he drew a description.

Q Tell us what description was given.

A He described it as being two foot long and in the form of sort of an I-beam. He said there were holes all the way down the complete length of it.

Q Was it described as being lead or some other kind of metal?

A Well, in his first admission he said lead pipe.

Q We are talking about the second description now.

A I wouldn't know what the metal composition would be, sir.

Q Now, when the boy made this statement to you about the Weiss matter the first time, he stated that he had also taken some kind of a package, isn't that so?

A That is correct.

Q You were aware of what was actually taken from Miss Weiss, were you not?

A I was, yes.

Q And you were aware of the fact that no package had actually been taken from her other than her purse, isn't that so?

A I was, yes.

Q And is it not also a fact that prior to the statement by the boy on the 26th you were aware of the contents of her purse?

A Yes.

Q During the course of your interrogation of him on the 26th you made reference to the contents of the [fol. 185] purse, did you not?

A I asked him what the contents of the purse were.

Q Didn't you tell him what was in it?

A One of the articles I did.

Q Now, will you tell us again the different versions that were given to you or made in your presence of the alleged disposition of the weapon?

A He first told us that he had discarded the pipe at the rear of the furnished room house on the corner of 15th and East 31st Street. Later that evening he then told us that this weapon which he had used on both victims he had thrown into the river.

Q Didn't he also tell you that at some time or other he had buried it?

A He told us that he had buried the weapon after the Weiss assault, he had recovered it, used it on the Giambra girl and then threw it into the river.

Q Now, you had been in the Grand Jury room prior to the 26th, hadn't you?

A No. I think the first day that Mr. Arther gave the test the Grand Jury was sitting.

Q I don't mean in connection with this matter. I mean prior to your meeting the boy you were familiar with the general appearances of the Grand Jury room, were you not?

A Oh, I have been in it many times.

[fol. 186] Q Would you describe it for us, briefly?

A It is a medium sized room—I mean, as far as court rooms are concerned, it has several chairs, maybe 25, and it has a regular Judge's Bench, at least something like a Judge's Bench.

Q Well, would you say that it could properly be characterized as having the appearance of a court room?

A I would say it has somewhat the appearance of a court room.

Q As a matter of fact, it is used from time to time for trials, is it not?

A That is correct.

Q Now, when the boy was brought to the Court House on the 21st he was taken to the Grand Jury room?

A He was taken to the anteroom of the Grand Jury.

Q And on the 26th he was either in the anteroom or in the Grand Jury room back and forth during most of the period he was in the Court House, isn't that so?

A Yes, sir.

Q You were in the court room yesterday when Detective DeSimone testified to this so-called father and son conversation with Mr. Monks, were you not?

A Yes.

Q Where were you when that took place?

A I was in that room, the Grand Jury room itself.

Q And how far away from Detective DeSimone and the boy were you when this conversation went on?

[fol. 187] A I was up and about, I wasn't sitting—

Q Did you overhear any part of it?

A Oh, yes, parts of it.

Q Tell us what you heard.

A I think he spoke to him in a monotone, a low voice, and asked the boy to tell us the truth if he had committed these assaults, not to tell us anything or not to admit to them if he hadn't done them, and to search his conscience, and so forth.

Q Did you hear Detective DeSimone use the expression, "we can prove it anyway"?

A No.

Q You didn't overhear the whole conversation, though, did you?

A No, I did not.

Q Did you hear Detective DeSimone say, "The people will think you are a hardened criminal if you don't confess"?

A No.

Q Tell us what else you heard, sir, if anything.

A That is about all I can recollect.

Q During all the time that this boy was in detention or at least from the time you first came into contact with him on the 18th until these staements were made on the 26th or early in the morning of the 27th, was there any person in contact with the boy who might be characterized as a friend of the boy other than Probation Officer Jarmolowicz?

A Only Mr. Jarmolowicz.

Q That is of your own knowledge.

[fol. 188] A That is correct.

Q You and Detective DeSimone and Detective Meola conducted this investigation in the same way that you would have conducted any criminal investigation, did you not?

A Yes.

Q Did you leave any instructions to anyone here at the Shelter on the 18th regarding the boy's right to have visitors or to see anyone?

A No, sir.

Q Did you return him to the Shelter on the 21st?

A Yes, I did.

Q Did you leave any instructions with anyone at that time regarding his right to see people and talk to anyone?

A No, sir.

Q Did anyone in your presence leave any such instructions on either the 18th or the 21st?

A No, sir.

Q Did you know on the 18th when you first talked to this boy, did you know whether he had ever previously been questioned regarding the Giambra matter?

A Yes.

Q You knew he had, isn't that so?

A I found out, yes.

Q How about the Weiss matter?

A No, never.

Q In other words, you don't know whether he had ever been questioned—

[fol. 189] A I don't think so, Mr. Evers.

Q Well, you don't know, do you?

A I don't know, no.

MR. EVERS: No further questions, your Honor.

REDIRECT EXAMINATION

BY MR. JOELSON:

Q Detective Ventimiglia, when this boy Monks was first brought into custody, do you know whether or not he was living at home with his parents?

A He was not living at home.

Q Do you know how long prior to the time he was in custody he had any contact with his parents, if you know?

A I don't know. As to the length of time, I don't know.

Q Where was he living at the time of his being taken into custody, do you know?

A He was living on Ellison Street. If you will bear with me, I will give you the address. 421 Ellison Street in Paterson. He was living with a man and his wife, Mr. and Mrs. Charles Wramage.

Q Now, did you prior to the time the boy confessed involvement in the Weiss matter, did you confront him with either Ogg or Stopford?

A He was confronted with Ogg and later Stopford.

Q And in your presence and in his presence did both of them state that Monks had confessed the Weiss assault to them?

A Yes.

* * * *

[fol. 190] THE COURT: Supposing we just have the detective tell what happened with Ogg and then Stopford.

THE WITNESS: Well, Ogg was the first to be brought in and—

THE COURT: What happened?

THE WITNESS: Monks was confronted with Ogg and Ogg repeated in Monks' presence that the morning after the Weiss assault he, Monks, had told Harry Ogg about it. As for Stopford, he was also brought in and Monks was confronted with Stopford and Stopford repeated that he also knew of the Weiss incident and that Monks had told him about it.

THE COURT: When Ogg was before William Monks, exactly what did Ogg say?

THE WITNESS: You are asking me for the exact conversation?

THE COURT: I mean the substance of the conversation.

THE WITNESS: The essence of the conversation was the next day he, Monks, had told Ogg, if my memory is correct, and he even showed him some money, showed him some dollar bills.

Q And at that point what did Monks do or say?

A He didn't say anything, Mr. Joelson.

• • • •

[fol. 191] Q What happened as far as Stopford is concerned?

A He also repeated in Monks' presence what he, Monks, had told him about the Weiss incident and he didn't deny it, he just lowered his head onto the table.

Q Now, you testified before that the only time the Monks boy was out of your presence on the 26th was when he was with Mr. Arther.

A Right.

Q What about the time that Detective DeSimone was sent for the lunch and came over and talked to the boy, were you present then?

A No. He was in the anteroom with him where the machine was; I was in the Grand Jury room at that precise incident.

MR. JOELSON: I think that's all.

THE COURT: Detective, did you at any time tell Monks anything about the footprints from the hospital to that house on 15th Avenue?

THE WITNESS: I believe I did. Of course, that knowledge came as a result of talking to the two other boys. I may have mentioned the house to him, I am not sure. I am not sure on that.

MR. EVERS: May I inquire on that?

THE COURT: Yes.

[fol. 192] BY MR. EVERS:

Q You had access to the police report of February 24th or 25th, 1956, didn't you?

A I did.

Q Didn't that have reference to the footprints?

A No, sir.

Q I didn't understand whether you said you did or did not have access to the report.

THE COURT: He said he had access but the report doesn't have anything about the footprints in it.

Q Did you ever discuss it with the investigating officer?

A Yes, I did.

Q Now, you were aware that he testified here yesterday that there were footprints leading to that house, weren't you?

A I was aware of that, yes.

Q You were aware of that prior to talking to the boy, weren't you?

A I don't recall whether it was prior or after.

Q Now, the fact that the boy was living with Mr. and Mrs. Wramage, did that fact militate against your communicating with the boy's parents?

A No.

• • • •

[fol. 193] Q What time of the day did Ogg say William informed him about this Weiss matter?

A On the 26th?

Q No. Going back to the confrontation scene, am I correct in recalling your testimony that Ogg said on the morning after the incident William had told him about it?

A That is the way I recall it, yes.

Q Do your notes throw any light upon it?

A As to the time that he was confronted with Monks?

Q As to the time that Ogg said Monks told him about Monks' involvement in the Weiss matter.

A Well, I have nothing in my notes to clarify that except that my recollection is that Monks told Ogg the next day.

Q Well, didn't you a few minutes ago in response to a question from the Prosecutor say that Monks told Ogg the following morning?

A I said the next day or the next morning.

Q Well, did you say the next day or the next morning?

A I may have said the next morning.

Q You weren't present when Ogg testified yesterday, were you?

A I was not.

Q What time of the day was it or what time of the evening was it when William lowered his head on the table after being confronted with Stopford?

A 6:30.

[fol. 194] Q He hadn't had anything to eat, had he, since noon?

A He ate at noon and somebody was getting the food just about that time.

Q He hadn't had anything since noon?

A I don't think so.

* * * *

BY THE COURT:

Q Do you recall, Detective, on the 18th when you testified that it was the first time you saw the boy what time of the day it was that you first saw him?

A I believe I said 2:30 p.m., sir.

Q Then the second time you saw him was on the 21st of February?

A That is correct.

Q Then you saw him again on the 26th of February?

A Yes, sir.

Q Were there any other items on the 18th other than the snowing that you had mentioned before—was there another item or incident which you told us about?

A As far as I am concerned, that snowing was the impression that I was left with—

Q Was there anything about the Giambra case?

A It was mentioned but we didn't press it. I didn't; I know Mr. DeSimone didn't.

Q Did he make any oral statements to you on the [fol. 195] 21st, whether they were admissions or not?

A No. There was no interrogation by myself or Detective DeSimone on the 21st, or any detective.

Q Did you investigate, Detective, the original crime of Weiss or Giambra?

A I was on the Giambra matter but not on the Weiss matter.

• • • •

THE COURT: As a point of information, Mr. Joelson, in these statements are the contents of the bag; the Weiss bag, given?

MR. JOELSON: Yes, they are.

Q What was the one item, Detective, of Miss Weiss' bag which you mentioned to Monks?

A The pill box, what I call—that is what I call it, pill box.

Q Did you mention anything else?

A No, sir.

[fol. 196] Q Did you mention any of the contents of the Giambra bag to William?

A I didn't and nobody ever knew what the contents of that bag were.

Q Were you present when Detective DeSimone came back after he was called by Mr. Arther and William?

A Yes, I was.

Q And what did William say to Detective DeSimone then?

A I'm sorry, I wasn't present when Mr. DeSimone came back. As soon as he got back, he went into the anteroom with William Monks. I wasn't in there.

• • • •

BY MR. JOELSON:

Q Detective Ventimiglia, were you present in the Passaic County Court House on February 26, 1957, when [fol. 197] a stenographic statement was taken by Leo Weberman of questions asked by County Detective Vincent DeSimone of William Richard Monks?

A I was, sir.

Q I show you this statement, S-5 for identification. Have you had opportunity to look at this recently?

A I don't think I have seen this since it has been reduced to typewritten form. Yes, I did. I did, that's right, I'm sorry.

Q Were you one of the witnesses to this statement?

A I was.

Q And did William Monks sign this in your presence?

A He did.

Q And did he also initial the pages in your presence?

A He initialed every page "WM" and he has signed Page No. 10 "William Richard Monks." It also bears the signatures of Vincent DeSimone, Chester Jarmolowicz, myself, Captain O'Brien, Detective Meola and yourself, Mr. Joelson.

MR. JOELSON: I offer this statement in evidence, S-5 for identification.

MR. EVERS: May I inquire preliminarily about it?

THE COURT: Yes.

* * * * *

[fol. 198] BY MR. JOELSON:

Q Now, Detective, were you also present when this statement which is marked S-6 for identification was signed by William Richard Monks?

A Yes, sir.

Q And did you witness the signing of that along with others?

A I did, sir.

Q And did you see Mr. Monks initial each and every page?

A I did, sir.

MR. JOELSON: I offer this in evidence.

* * * * * *

MR. EVERS: Your Honor, in order to lay the foundation or attempt to lay the foundation for an attack upon the alleged confessions I would like with your permission to call Probation Officer Jarmolowicz to let him testify as to the circumstances under which the confessions and statements were made.

THE COURT: Well, you can, of course, do that and [fol. 199] you will be given an opportunity to do that—

MR. RUBENSTEIN: Just on the preliminary question of the voluntariness of these statements.

THE COURT: All right.

CHESTER J. JARMOLOWICZ, being first duly sworn, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. EVERS:

Q When on the 26th of February, 1957, did you first see William Monks?

A About 10:00 a.m.

Q Were you with him continuously until these statements were made?

A Yes, sir, with one exception.

Q What was that exception?

A That exception was when he was taken by the detectives to the garden plot, I believe it was, where he had hidden something.

Q Well, did you take the trip to the east side in the detective's car?

A When?

Q In the late afternoon.

A When they were to search the garden there?

Q No, I am referring to their whole trip to the east side area. Did you go along?

A No.

Q In other words, there was an interval of about an hour and a half when the boy was not with you?

A I don't think it was even an hour. Probably about [fol. 200] an hour.

Q Well, the fact is that the only times you saw the boy on this day were in the Court House, is that so?

A That's right, and the Shelter when I conveyed him.

Q What time of the day or night were these statements which have been marked S-5 and S-6 for identification, what time were they made?

A Oh, I think they were taken about somewhere after 10:00.

Q 10:00 p.m.?

A 10:00 p.m., yes.

Q Would it refresh your recollection if you looked at them and saw what these statements say regarding the time they were taken?

A Yes. I said after 10:00.

Q Would you tell us what the statements say?

A This statement says 10:30 p.m., statement started 10:45 p.m., completed about 11:30.

Q That is S-5, isn't it?

A Yes.

Q Will you look at S-6 and see if there is any indication on that as to when it was taken.

A It says it was taken at 12:00 a.m. and completed 1:00 a.m., on February 27th. It was continuous.

Q Were you in the room when Detective DeSimone had his conversation with the boy, the conversation that has been referred to as this father and son or heart to heart talk?

A Yes, I was.

Q In which room did that take place?

[fol. 201] A That took place in the court room itself.

Q In the Grand Jury room?

A Grand Jury room, rather.

Q And where were you in that room when this conversation took place?

A I would say about from here to the wall, which would be about I would say 12 feet or a little closer.

Q Did you overhear the conversation?

A Parts of it.

Q Tell us what you heard, please.

A Well, I heard Mr. DeSimone appealing to the boy to search his conscience and to relieve himself of the truth, that he would feel better and that he would certainly be a credit to himself. That is the essence of it.

Q Did you hear any statement to the effect that it would be easier for the boy to tell that he had done these things?

A No. He wasn't given any information such as that.

Q At least none that you heard?

A None that I heard, no.

Q And there were parts of the conversation which you didn't hear, isn't that so?

A That's right.

Q Were you in the presence of the interrogating officers at all times during this day other than the period to which you have referred when they took the trip to the [fol. 202] east side area?

A I was present in the room unless he was in the anteroom with the tests.

Q You mean with Mr. Arther?

A Yes, Mr. Arther, that's right.

Q Do you know whether you heard everything that went on between the officers and the boy prior to this conversation with Detective DeSimone?

A Not all because I was instructed very carefully by the court, by the Judge, to be there only to see that the boy was not browbeaten or exhausted in any way which would be unfair to him.

If I may say something at this point, your Honor, you see, I took no notes of what transpired because I was told—we usually proceed with the information supplied to us by the detective bureau or the Children's Bureau in the average juvenile case. You see, I would then proceed with the information that I got from them. However, I did hear certain things and what connection the things were in the sequence, as far as I can recall, if that will be any aid to the court.

Q Well, did you hear Detective Ventimiglia refer to the pill box in the Weiss bag?

A I believe so.

Q And during the course of that day did you hear either Detective Ventimiglia or any other detective enumerate the other items that were in the bag?

[fol. 203] A I can't say. I don't recall.

Q Well, was there any time during that day when you did hear an enumeration of those items?

A No. Only from the detective telling me but not in the presence of Monks.

Q In other words, it is your understanding that the detectives were aware of the contents of the bag, isn't that so?

A To some degree, yes.

Q This is prior to the boy making any statements indicating an involvement on his part?

A That's right.

Q Did you pick the boy up here at 10:00 o'clock on that morning or before 10:00 o'clock?

A Yes.

Q What time did you arrive for him?

A Shortly after I got to work, it must have been about 9:00, 9:30.

Q Do you know whether he had had his breakfast that day?

A I don't, no. You are talking about the 26th?

Q Yes.

A No.

Q You don't know?

A No, I don't know. I assumed that he had.

Q Do you know what else he had or do you know whether he had anything to eat at any time during that day from the time you picked him up until these state- (fol. 204) ments were made?

A I think we ate about noon and I think we ate around—well, it started somewhere around 6:00, 6:30, 7:00 o'clock before he actually ate. I think he had a sandwich at 9:00 o'clock or 9:30.

Q Did he have anything during the course of that day other than a sandwich or sandwiches?

A Meat sandwich, milk, I believe, pie.

Q He didn't have any hot meal, did he?

A No. I think he was offered coffee; I think he took milk.

Q I mean, was he offered a so-called meat and potato type of meal?

A No.

Q He was offered a sandwich, isn't that so?

A Yes, or several, whatever he wanted.

Q In the sandwich line?

A I don't think it was limited to that. They asked him what he wanted to eat and they were all having sandwiches so he asked for one.

Q Well, did anybody say, "We are going to send out for sandwiches; what will you have"?

A That I heard. I think it was Mr. DeSimone that said that.

Q So is it correct to say that he was asked if he wanted a sandwich?

A Probably, yes.

Q That occurred twice to your recollection?

A Yes.

[fol. 205] Q Were there any intervals in that day when the boy was left alone by himself?

A Yes. That was later in the afternoon. I believe after he had made an admission he was left alone.

MR. EVERS: I ask that that be stricken, "admission" be stricken, your Honor.

THE WITNESS: I wanted to avoid using that myself. Somewhere late in the afternoon he was given a rest. I would say it lasted for about 40 minutes.

Q Late in the afternoon?

A Yes, fairly late.

Q And with that exception he was constantly in the presence of some person or persons, isn't that so?

A Always.

Q And would it be correct to say that he was constantly interrogated regarding these matters?

A No.

Q Well, were there any times when there was no discussion about these cases?

A No. What would happen is the officers would go off at a distance and give themselves a series of questions to ask him and before they came back maybe 5, 10, 15 minutes would pass, perhaps more.

Q But the boy would be aware, would he not, of the fact that they were just preparing for the questions?

[fol. 206] A Well, I assume so. He had nowhere to go.

Q Could you properly say, therefore, that this was a continuing process of interrogation from approximately 10:00 o'clock in the morning until the statements were made?

A Well, I wouldn't say it was a continuing direct questioning. I would say it would be an episode of questioning with intervals of rest for the boy because the officers concerned wanted to compare notes with themselves and probably cover points that the other wasn't thinking of.

Q Well, referring to these intervals when the officers would compare notes, how many of them were there?

A Well, I think almost always Officer Ventimiglia and Vincent DeSimone were there.

Q When they conferred or in preparation for these little conferences did they indicate to the boy that they were going to leave him alone?

A No. They would just simply cease questioning him and the boy sat in the chair and I believe the officer sat at a table facing him there. It was a long table about this size (indicating).

Q And the boy would be told either expressly or impliedly to remain where he was, is that right?

A He was never told. He just remained there.

Q But would the officers withdraw from the room?

A Only to go to the bathroom.

Q Or did they go over to the corner of the room to [fol. 207] confer?

A Yes.

Q Whispered conversations?

A Yes.

Q These took place in the presence of the boy?

A Yes. I took advantage of one of those episodes to ask the boy that if he really knew anything about these offenses that he should unburden himself and search his conscience and that he would feel much better if he told it because he would have it to live with the rest of his life, the sort of counseling I would give any boy in any juvenile court.

Q These episodes wherein these conferences between the police officers took place lasted for approximately five minutes or ten minutes, is that correct?

A I think the longest was about ten to fifteen minutes.

Q You wouldn't—

A And even there there were interruptions where we just sat there.

Q Was it your understanding that while these things were going on that they were just preliminary to further interrogation?

A Oh, yes. I knew what the purpose of these interrogations were.

Q So you wouldn't properly characterize these intervals as rest periods, then, would you?

A Well, he was resting insofar as the fact that he wasn't answering questions, which was to a degree a rest for him.

Q Well, they were really interruptions in the inter-[fol. 208] rogation, weren't they?

A That's it.

Q Very brief interruptions?

A Yes.

Q So the only sustained period when the boy was not interrogated is this period of roughly 40 minutes to which you have previously testified?

A Yes.

Q Was he left alone in the room then?

A No.

Q Who was with him during that period?

A I don't understand you.

Q This 40 minute period of rest in the late afternoon to which you referred.

A Mr. DeSimone, I believe, and Mr. Ventimiglia, I believe, were there.

Q They stayed in the room during the 40 minute period?

A They may have walked through the hall. You see, the room does not actually—the door we were using does not actually open into the hall, it opens into a long narrow smaller hall in which the anteroom is adjacent. I myself walked in there but under no circumstances would I consider that leaving him alone because I could have heard any talk going on.

Q During this 40 minute period do you know whether the boy slept?

A No. I thought he was quite relaxed and alert. That was the one thing I was looking for. If I thought he was being exhausted I would have demanded that it stop.

[fol. 209] Q Well, this was late in the afternoon, wasn't it?

A Yes.

Q And the process of interrogation continued for several hours after that, didn't it?

A No. At that time I believe food was talked about.

Q Well, the fact is that you didn't leave the Court House until after 1:00 a.m. on the 27th, isn't that so?

A Yes.

Q Now—

A I haven't answered your question.

Q You answered yes.

A I didn't mean yes if you mean that he was interrogated after that rest period.

Q My question was this: you didn't leave the Court House until after 1:00 a.m. on the 27th; isn't that so?

A Oh, that part—

Q Your answer is yes?

A Yes. I was talking to the question before that.

Q Now, was the boy questioned by more than one detective at any time on this day?

A Only these two, Ventimiglia and DeSimone.

Q But would they both participate in the question?

A I think there were only two instances where they alternated questions. After that I would say that 90 per cent of the questioning was done by Mr. DeSimone.

[fol. 210] Q In the presence of Detective Ventimiglia?

A Yes.

Q Is that right?

A Yes.

Q But there were at least these two periods during which they alternated questions, is that correct?

A I think it happened only once.

Q How about Detective Meola, did he participate in the questioning?

A No. He was in the room several times—

Q There were times when the boy was in the presence of the three detectives, then, and yourself, isn't that so?

A Yes.

Q And there were times when he was questioned in the presence of the three detectives?

A That's true.

Q By either Detective DeSimone or Detective Ventimiglia or both?

A That's right.

Q Now, you heard the boy deny complicity in either or both of these offenses, did you not?

A Yes.

Q And you heard him repeat those denials on many occasions, did you not, on the 26th?

A Well, he admitted it and he denied it, then he readmitted it.

Q Well, you were present in the court room yesterday when Detective Ventimiglia testified, were you not?

[fol. 211] A Yes.

Q And do you recall his saying that it was about 4:00 or 4:30 in the afternoon when the boy admitted involvement in the Weiss matter?

A I believe so, yes.

Q And prior to 4:00 or 4:30 the boy had been interrogated on and off for either six or six and a half hours, had he not?

A With intervals of eating and testing, yes.

Q And during that period of six or six and a half hours, were there not occasions when he denied that he had done these things?

A Yes.

Q Weren't questions put to him—

A Yes.

Q (Continuing.) —and he denied complicity?

A If I recall, yes, he was denying it.

Q And there were many denials, were there not?

A Well, I would say no more than four or five, three to five, because the questions were not constantly asking for admission. They were leading questions up to a certain point and then a question would be asked him and he would deny it.

Q But you are sure that at no time prior to 4:00 or 4:30, you are sure that no time prior to that he admitted involvement in either of these offenses?

A Well, I will have to consult my notes. As far as
I can make out, it was approximately late in the after-
[fol. 212] noon when the boy admitted to the Weiss of-
fense after being confronted by Ogg.

Q There were no admissions prior to that time?

A No, none.

Q Did the boy cry at any time that day?

A No.

Q Did you hear the testimony earlier about his having lowered his head on the table?

A Yes.

Q Did you see him lower his head?

A I saw him lower his head, yes. He was not crying.

Q Well, could you observe his eyes when he had his head down?

A No.

Q He had his head buried in his hands?

A No. He was too close to the table—

Q You don't know whether he was crying or not, do you?

A Except when he raised his head, I saw no evidence of it.

Q You saw no tears. How long was his head down?

A Just a few seconds.

Q Did you see any sobs or hear any?

A No.

* * * *

[fol. 213] CROSS EXAMINATION

BY MR. JOELSON:

Q You witnessed this confession, did you not?

A That's right.

Q And you were there while the boy was being questioned and Mr. Weberman was transcribing his answers?

A That is true.

* * * *

THE COURT: You were referring in your last questions to Mr. Jarmolowicz to which exhibits?

MR. JOELSON: S-5.

THE COURT: Will you ask him about S-6?

BY MR. JOELSON:

Q Now, were you present when S-6 was signed by Monks?

A Yes.

Q And did you witness it?

A I witnessed it.

Q Were you present while the questions and answers were going on and while Mr. Weberman was transcribing those questions and answers?

A That's true.

* * * * *

[fol. 214] Q Do you remember, Mr. Jarmolowicz, that County Detective DeSimone asked Monks if he was willing to give a voluntary statement without any threats or promise of reward knowing that it would be used against him in a trial?

A Yes.

Q And do you recall what Mr. Monks' answer was to that?

A He said he would give the correct answers, he would answer, and he understood his rights.

Q Now, were you also present when he was asked if he was threatened or abused in any way?

A Yes, sir.

Q And what was his answer to that?

A He said no, not abused.

Q All this goes to S-5.

Were you also present when he was asked whether [fol. 215] any promise of reward had been made to him?

A Yes.

Q And what was his answer to that?

A He said no.

Q Now, was he also asked in this statement as to what and how often he had eaten that day?

A Yes.

Q Now do you recall exactly what his answer

A I think he said three times, if I am not mis

Q And did he say whether or not he had break

A I don't recall unless I look it up.

Q I will show you now S-6 for identification, 11, and ask you whether this refreshes your mem

A My recollection is that he was asked and mitted that he had eaten at least three times that before I was shown that.

MR. JOELSON: All right.

BY MR. EVERS:

Q Mr. Januszewicz, did I understand you to response to a question from the Prosecutor that stated that he knew his rights?

A No. You mean—

(fol. 216) MR. JOELSON: I'm sorry, but that what I asked. I asked if he was advised that any ment had to be voluntary and could be used at a

THE COURT: Just a moment.

MR. EVERS: May I request that the reporte the answer that was given to that question when put by the Prosecutor a few minutes ago?

THE COURT: Yes.

(A portion of the record was read as request

BY MR. EVERS:

Q Does that refresh your recollection now as he said?

A Yes.

Q Did you at any time on that day advise Mr that he had the right to consult a lawyer?

A No.

Q Did you suggest to him at any time that he confer with his mother or father?

A No.

Q Did anyone in your presence suggest these things?

A No.

Q Did anyone suggest to him or
had a privilege against self-incrimina
A I wouldn't recall anyone. I don
Q So far as you know, no one did
so?
A Not during the interrogation.
Q Any time during that day?
(R. 311) A Well, at the time th
taken that question was raised.
Q Prior to these typical statements
A I don't recall anyone explaining
Q When he used the expression
testified, is that he knew his rights
to you?
A Well, according to law I under
as a citizen of this country, has right
to obtain justice.
Q You don't understand that
counsel?
A Well, counsel if you choose.
Q But you were aware that he was
A That's true.
Q And you have any question
know his rights under the Constitution
A Well, I didn't know, which right
standpoint I didn't know, his full right
entitled to all the rights that a person
laws.
Q By the expression he knew his
meaningless, wasn't it?
A No. To the degree that
the so far exactly what I meant by
his rights, namely a fair hearing, a
bench, and so forth.
Q Is that your conception of his
A That is [illegible]

(R. 312) BY THE COURT

Q Mr. [illegible], when were you
[illegible] to this county seat? [illegible]

A I believe it was on a Monday, February 18th. The first I knew was when Mr. DeSimone came in and explained to me what they were planning to do, the connection that they thought possibly existed, the connection with ~~the Giambra case and~~ this boy being involved here.

Q Did you communicate with Judge Schamach?

A Yes, and the Judge said that I was to be there with him to look out to see to it that he was not browbeaten or abused in any way or pushed to any extreme.

Q How long have you been in the Probation Department?

A Since 1942.

Q What is your position there now?

A I am now a principal probation officer.

Q Did you have any training for this position?

A Well, I did welfare work.

Q Any education?

A College.

Q What college?

A Penn State, Rutgers.

Q What degree do you hold?

A I have a degree in pharmacy. I am a graduate in pharmacy.

Q And what other degrees?

A No other.

Fol. 219 Q What did you major in?

A I majored in pharmacy.

Q After that did you have any sociology?

A No, until I was employed by the Welfare Board in Passaic, we took courses without points at Rutgers.

Q The years that you have been in the probation office you have been dealing with juveniles?

A Yes. I would say I have been dealing with juveniles for about ten years out of the fifteen I have been there. The other five years I was in charge of all adults. Well, even then I was in charge of juveniles if they were placed on probation and lived in Passaic. My territory was Passaic and the adjoining towns.

Q On this day of February 20th when Mr. William Monks gave this statement, what did you observe about his physical condition?

A I thought he was—

Q What did you observe about his physical condition that late at night? One of these statements was at midnight.

A I thought he was relieved. I thought I would see some signs of tiredness in him but I noted very little. I thought he was quite relieved.

THE COURT: All right. That's all.

BY MR. EVERS:

Q Mr Jarmolowicz, this attitude of relief to which you have testified could have been relief from the inter- (fol. 220) rogation, too, couldn't it?

A He spoke much more clearly and more relaxed. He orated, he was orating freely; he wasn't under probably as much tension as he would be expected to be.

Q Well, would you say the boy was under tension during most of this day?

A Oh, I think he was under a tension of some sort but not unduly so.

Q So this attitude of relief was relief from tension, isn't that so?

A Yes, tension and conscience.

Q You don't know anything about the boy's conscience, do you?

A Well, I don't think any of us knows.

Q All you are prepared to say is that the tension that was apparent earlier in the day appeared to be relieved late at night when these statements were taken?

A Yes.

Q Did you see the boy any time between the 18th and the 21st?

A No.

Q And did you see him between the 21st and the 26th?

A I believe he was given the first test on the machine on February 21st.

Q That is correct.

A That is my first entry there. The last time I saw him was when we had gone on the 18th, Mr. DeSimone and I went to the Shelter, then the interval. I am ex-

(fol 221) explaining the interval by saying that arrangements had to be made to get the lie detector test set up.

Q Your testimony is that you did not see him between the 19th and the 21st, is that correct?

A That's true.

Q Now, between the 21st and the 26th did you see him?

A Yes, I saw him the 21st, he was given a test.

Q We are aware of that. We are talking about the 22d, 23d, 24th and 25th. Did you see him on any of those days?

A No, I didn't.

Q I believe you testified also that when Detective DeSimone telephoned you on the 19th he suggested that they were going to inquire into the Weiss and the Giambra matters, is that correct?

A Yes.

Q And that was prior to either you or Detective DeSimone seeing the boy on that day?

A I don't know if Detective DeSimone had seen him but I hadn't seen him. He may have seen him elsewhere.

Q What time of the day did this telephone conversation take place?

A Fairly early in the morning.

Q What time of the day did you see the boy?

A It must have been after lunch.

Q And you saw him in company with Detectives (fol 222) DeSimone and Ventimiglia?

A That's right.

Q And it is your recollection that they were intent upon inquiring into both Weiss and Giambra prior to meeting the boy on that day, is that correct?

A I know that, yes.

* * * * *

MR. DUBERSTEIN: We, we are going to ask Monks to take the stand on the question of the voluntariness of the statement.

* * * * *

WILLIAM RICHARD MONKS, being first duly sworn, testified on his oath as follows:

(fol. 223) DIRECT EXAMINATION

BY MR. RUBENSTEIN

Q Billy, how old are you?
A Now?
Q Now.
A 16.
Q And how old were you in February of 1957?
A 15.
THE COURT: Let's get his birthday.
Q What is your birthday?
A October 30.
THE COURT: What year were you born?
THE WITNESS: 1941.
Q Now, when you were taken into custody in February of this year what grade were you in school?
A Eighth grade.
Q Eighth grade?
A Yes, sir.
Q Had you finished the eighth grade?
A No.
Q Have you ever graduated from grammar school?
Q No, sir.
Q Now, you were taken into custody on the 16th of February, is that right?
A Yes, sir.
Q Where were you brought here?
A Police station.

* * * * * * *

Q Where were you brought first, to the police station?
(fol. 224) A Yes.
Q How long were you at the police station?
A Overnight.
Q And then you were brought where?
A Here.
Q And after you were brought here, that was then the 17th?
A Yes, sir.
Q Until February 20th.

THE COURT: Indicate where he was brought.

Q "Here" is the Children's Shelter, is that correct?

A Yes.

Q Up until February 27, 1957, where were you housed, kept?

A Where I slept?

Q Yes.

A Here.

Q At the Children's Shelter?

A Yes.

Q From the time you were first picked up until the 27th of February, did you see any member of your family?

A No, sir.

Q Did you see any of your friends?

A Yes, sir.

Q Where?

A Court House.

Q At the Court House. You are talking about whom?

A Robert Stopford, and Harry Ogg.

Q That was during the questioning, is that right?

A Yes, sir.

(fol. 225) Q No one came to visit you here, did they?

A Here?

Q Yes.

A I think my mother did.

Q Was that before the 27th?

A I don't know about that.

Q Well, before this alleged confession, had you seen your mother?

A No.

Q Your mother came, would that be after this alleged confession?

A That's right.

Q From the time you were first picked up until the time of this confession, did you consult with any attorney?

A No, sir.

Q Now, on the morning of February 26th, which is the day that this alleged confession was signed, made, what time did you have breakfast?

A About 7:00.

Q Where?

A Children's Shelter.

Q How had you slept the night before?

A Not too good.

Q Not too good?

A Yes, sir.

Q After you had breakfast here at 7:00 o'clock, did you stay here?

A No. The police picked me up.

Q About what time?

A Sometime in the morning.

Q And where did you go?

fol. 224 A To the Court House.

Q From the time you left to go to the Court House in the morning on the 26th until you returned here the early hours of the next morning, did you come back to the Children's Shelter on that day?

A No, sir.

Q Were you at the Court House all during that period?

A Yes, sir.

Q Well, you were out of the Court House for awhile, weren't you? Did you go anyplace with the Detectives?

A Yes.

Q When was that? What part of the day was that that you went somewhere with the detectives?

A In the morning. I am not sure of that, though.

Q Now, during the day after you got to the Court House, were you interrogated, were you asked questions?

A Yes, sir.

Q Who asked you questions?

A Sergeant DeSimone.

Q Did anybody else ask you questions on that day?

A Not that I remember.

Q I am talking about the 26th, the day upon which these alleged confessions were made.

A He may have asked me some questions.

THE COURT: Pointing to Detective Sergeant Ventimiglia.

fol. 225 Q Did you meet Mr. Arthur on that day also?

A Yes.

Q Did he ask you questions?

A Yes.

Q Were you with them, were you with Mr. DeSimone and Mr. Ventimiglia all day?

A Except when I was with Mr. Arther.

Q Did you have any conversation with Detective DeSimone concerning whether you should admit to these two occurrences?

A Yes, sir.

Q What did he say?

A He says—

MR. JOELSON: Fix a time.

Q About when was this that he said this to you?

A In the afternoon.

Q What did he say to you?

A He says to get it off your chest, it would make it easy on you.

Q What did you think he meant when he said it would make it easy on you?

* * * *

Q What did you think Mr. DeSimone meant when he said that?

A Maybe the Judge would give me a break.

(fol. 228) Q Now, the first of these signed statements you made, when did they start asking you those questions? Was it afternoon or night?

A That there?

Q Yes.

A It was nighttime.

Q What was your physical condition at the time?

A I was tired then. I was tired.

Q How tired were you?

A I didn't have any sleep that night before.

Q How tired were you?

A What do you mean?

Q Did the fact that you were tired have anything to do with the giving of these confessions?

* * * *

A Yes.

Q What?

A Well, I was being questioned a lot and I didn't sleep that night before and I was tired and I just signed the confession.

Q Why did you sign the confession?

[fol. 229] A Well, they were questioning me a lot and I was tired and weary and I just signed it.

Q On this day, the 25th of February, at any time on that day did you cry?

A Yes, sir.

Q When?

A When he brought Harry Ogg or Stopford in.

Q Which is it?

A I don't know which one it was at that—

Q Now, when you were picked up originally on the 16th or thereabouts, was it during the day or the night?

A Early morning.

Q You say early morning. About what time?

A About 2:00 o'clock.

Q Where were you when you were picked up?

A Sleeping.

Q Did they wake you up from your sleep?

A Yes, sir.

Q Where were you at the time?

A 421 Ellison Street, 421 East Ellison Street.

Q Where did they take you directly from that house?

A Police station.

* * * *

[fol. 231] THE COURT: I don't think that as a matter of law the evidence indicates that these statements are involuntary or that they were not freely given. I don't think proof as to any compulsion or any reward or any excessive importuning has been produced, and I will admit the documents at this time.

MR. RUBENSTEIN: All right.

THE COURT: I am not foreclosing the boy or his [fol. 232] attorneys from producing further evidence if they have any with respect to these statements. Bring it in at any time if there is anythnig that you think will have any bearing upon it. At any time you can produce it. They will be marked in evidence. The first one, which was S-5 for identification, will be S-5 in evidence, and S-6 for identification will be S-6 in evidence.

(Exhibits S-5 and S-6, previously marked for identification, received in evidence.)

* * * *

VINCENT DeSIMONE, resumed the stand, testified further on his oath as follows:

MR. JOELSON: Does your Honor want me to read these statements into the record or is it enough just to sumit them in evidence?

THE COURT: I think they ought to be read.

MR. JOELSON: All right. I think Detective DeSimone has been sworn already and—

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. JOELSON:

Q Detective DeSimone, you took this statement mark-[fol. 231]-ed S-5 in evidence, did you not, from the alleged delinquent?

A I did, sir.

Q Would you please read your questions and answers?

THE COURT: Suppose you read them.

MR. JOELSON: I shall read from S-5.

THE COURT: What page is that?

MR. JOELSON: I am starting at Page 2, Page 1 merely being a frontispiece saying the document is a statement. "By Detective DeSimone: Question: My name is County Detective Vincent DeSimone. I am going to ask you questions concerning the assault on Nancy Weiss on February 24, 1959 at approximately 11:15 p.m. in Paterson, New Jersey. Do you agree to give a statement? Answer: Yes. Question: Is this statement to be given by you voluntarily without any threats or promise of reward knowing that it will be used against you in a trial? Answer: I agree. Question: What is your name, age and occupation? Answer: My name is William Richard Monks. I am 15 years old and I am a school student. Question: Where and with whom do you reside? Answer: At 295 East 31st Street, with my mother, father and sisters. Question: How long have you lived there? Answer: About eight years. Question: Are you presently in custody and where? Answer: I am in custody in the Children's Shelter. Question: Why were (fol. 234) you taken into custody? Answer: For purse snatching. Question: On February 21, 1956, at approximately 10:00 p.m. where were you? Answer: I was standing alongside the nurses' home on East 31st Street. Question: Will you tell me in your own words what happened at that time? Answer: I saw this woman walking down on the west side of 31st Street towards Broadway, and I snuck up behind her and hit her with a piece of lead pipe and grabbed her purse and ran. Question: Where do you run?"

There a line is drawn through "do" and the word "did" is written in in ink with "WM" initialed.

"Answer: Up 15th Avenue and 31st Street. Question: Where do you go?" And here also the word "did" is inserted in ink. "Answer: I went to the bathroom in an apartment house and took out the money and I put the bag in a garbage can behind the garage. I went down 31st Street and Fifth Avenue and buried the pipe. Question: How much money was in the purse? Answer: About $30 and some change. Question: This bathroom you referred to, was that in an apartment? Answer: No. Question: Was it a bathroom in a hall for all tenants of that floor to use? Answer: Yes. Question: On what floor was the bathroom? Answer: On the first floor. Question: Did you enter the front or rear (fol. 235) door of the apartment house? Answer: Rear door. Question: Where is the bathroom in relation to the rear door—In other words, how far do you have to go? Right by the door on the left? Answer: Yes. Question: The lead pipe that you used, will you describe it and tell me where you obtained it? Answer: It was about two feet long, it had holes in it and it was shaped like a threaded end. Question: Where did you obtain it? Answer: I found on the road where some men were working. Question: On what street? Answer: On 32nd and 15th Avenue. Question: What was your reason for standing on the corner of 13th Avenue and East 31st Street on that evening? Answer: I was looking for a pocketbook. Question: Where did you have the pipe while you were waiting? Answer: Down my left leg. Question: Inside your pants? Answer: Yes. Question: Left leg or right leg? Answer: Left leg. Question: What were the weather conditions that night? Answer: It was snowing. Question: Did you take anything from the woman beside her purse? Answer: A package. Question: Will you describe the package? Answer: It was just about like this package. Question: Will you describe the purse that you took on that evening? Answer: It was a big purse, it was brown. Question: Have handles on it? Answer: Yes. Question: [fol. 236] This package that you referred to, was it about the size of this vanilla envelope? Answer: Yes. Question: What size? Answer: 10 by 15. Question: Getting back to the purse, does this purse that I am holding before you look like the purse that you took? Answer: Yes. Question: Was it exactly like this brown purse I now have before you? Answer: Yes. Question: When you opened the purse in the bathroom, was the bathroom well ligheted? Answer: Yes. Question: Did you take anything from the purse beside the money? Answer: No. Question: Did you notice anything else in the purse beside the money? Answer: Yes. Question: What? Answer: There was a white box in there, a watch. Question: What kind of watch, ladies or mens? Answer: It was a ladies. Question: A wrist watch or lapel watch? Answer: A wrist watch. Question: What else was in the purse? Answer: A pen and pencil set. Question: What else? Answer: A wallet and a lot of personal items. Question: Did you notice a mirror, compact, handkerchief and other such things in the purse? Answer: Yes. Question: What did you do with these other articles? Answer: Left them in the purse. Question: When you did what? Answer: When I threw it in the garbage can. Question: Did you place this bag on top of the garbage in the can? Answer: No. Question: [fol. 237] What did you do with it? Answer: I lifted some of the garbage up and put some other garbage on top of that. Question: Had you been to this apartment house before this evening? Answer: Yes. Question: When? Answer: I usually go there with Robert Stopford. Question: Why did you go there with Robert Stopford? Answer: He said, 'let's make it a hideout.' Question: When was the last time prior to this evening that you were there? Answer: Late this afternoon, I took the detectives there. Question: When prior to that were you there? Answer: I was there with Stopford. Question: When? Answer: In the summertime. Question: This past summer sometime? Answer: It was in the summertime, I remember that. Question: Why did you go in there at that time? Answer: Stopford and me we used to go in the bathroom and smoke a cigarette. Question: Did you go in prior to the time in the summer? Answer: Yes. Question: Would that be in the early spring? Answer: Yes. Question: Why did you go in there at that time? Answer: I went in there because I had another bag and I shared the money with Stopford. Question: How much did you give Bobby Stopford from that bag? Answer: $20. Question: How much did you keep? Answer: $30. Question: Will you describe the woman that you assaulted on [fol. 238] February 24, 1956, on East 31st Street? Answer: She was about my size. Question: How tall are you? Answer: I am about 5 foot 8 inches. Question: How old was she? Answer: She was about 35. Question: What was she wearing? Answer: She wore a long dark coat. Question: You don't—" and then the word "know" is written in in ink "—whether she had a hat on? Answer: No. Question: How many times did you strike her? Answer: One time. Question: What happened after you struck her? Answer: She fell down. Question: Where was she when she fell? Answer: On the sidewalk. Question: On what street and between what streets? Answer: On the west side of 31st between 13th Avenue and Broadway. Question: At approximately 5:00 p.m. today did you go to the scene with Detective Sergeant Peter Ventimiglia, Detective Joseph Meola and myself? Answer: Yes. Question: Did you at that time and place describe the assault and demonstrate how it occurred? Answer: Yes. Question: Did you also show us where you went and what you did after the assault? Answer: Yes. Question: Is there anything further you would like to add to this statement? Answer: No. Question: Is everything you told us the truth? Answer: Yes. Question: Have you been threatened or abused in any way? Answer: No. [fol. 239] Question: Have any promises of reward been made you? Answer: No. Question: When was the last time you have eaten and what did you eat? Answer: About 7:30, and I ate coffee, a sandwich and pie. Question: How many times did you eat today? Answer: Three times. Question: After you have read this ten-page statement and made any corrections you may find necessary to make, will you sign it? Answer: Yes," and it is signed and witnessed as previously testified.

Now, if your Honor please, I will read S-6 beginning with Page 2, Page 1 being merely a frontispiece.

"By Detective DeSimone: Question: My name is County Detective Vincent DeSimone, I am going to ask you questions concerning the assault on Giovanna Giambra on November 12, 1956, between 8:15 and 8:30 p.m. in Paterson, New Jersey. Do you agree to give a statement? Answer: Yes, sir. Question: Do you give this statement voluntarily without any threats or promise of reward knowing that it will be used against you in a trial? Answer: Yes. Question: What is your name? Answer: William Richard Monks. Question: What is your age? Answer: 15. Question: When were you born? Answer: October 30, 1941. Question: What is your occupation? Answer: School student. Question: [fol. 240] Where and with whom do you reside? Answer: Mother, father and sister. Question: What is your address? Answer: 296 East 31st Street. Question: How long have you resided there? Answer: Eight years. Question: Are you presently in custody? Answer: Yes. Question: Where have you been detained? Answer: Children's Shelter. Question: Why were you taken into custody? Answer: Purse snatching. Question: On November 12, 1956, in the early evening, where were you? Answer: At home. Question: Did you go out that evening? Answer: Yes. Question: Will you tell me in your own words what time you went out and where you went? Answer: I left my home around 7:30. Question: And you walked to where? Answer: Park Avenue and 31st Street. Question: What did you do at Park Avenue and East 31st Street? Answer: I dup up the pipe that I buried there where they are now building an apartment. Question: Then what did you do? Answer: Stuck it down my leg inside my trousers. Question: Which leg? Answer: My leg. Question: Then what did you do? Answer: I walked down 32d Street and then I went to 15th Avenue to 33d Street and then to 13th Avenue and up to Wall Avenue. Question: What did you do when you arrived at 13th Avenue and Wall Avenue? Answer: I hid behind the wall on [fol. 241] the southeast corner, behind the wall. Question: What is located on the southeast corner of Wall and 13th Avenue? Answer: Big house with a big wall around it. Question: Why did you hide behind the wall? Answer: I was waiting for a purse. Question: What do you mean when you say you were waiting for a purse? Answer: I was waiting for a woman to walk by with a purse so I could take it from her. Question: What time was this? Answer: It was after 8:00 sometime. Question: While you were hiding there did you see a woman? Answer: Yes. Question: Where? Answer: On Wall Avenue. Question: Between what streets? Answer: 13th and 14th Avenues. Question: On what side of the street? Answer: East side. Question: Going in what direction? Answer: Towards Broadway. Question: How far from you was she when you first saw her? Answer: Almost a block. Question: Did you watch her entire time from the time when you first saw her? Answer: Yes. Question: What did you do then? Answer: Took out the lead pipe and started toward her. Question: How far from you was she at this time? Answer: About 20 feet. Question: What did she do? Answer: She saw me and then she turned and ran diagonally toward the Nuns' house. Question: What did you do? Answer: I ran after her. Question: [fol. 242] Then what did you do? Answer: She started to scream and I hit her on the head with the lead pipe and she didn't go down and I hit her again. I picked up the pocketbook and ran down 14th Avenue. Question: Where was she when you struck her? Answer: In the middle of the road on Wall Avenue, between 13th and 14th Avenues. Question: When you struck her what happened. Answer: She fell down and her head started bleeding and I got the pocketbook and ran dwn 14th, down Wall and 14th Avenue. Question: When you got to 14th Avenue and Wall Avenue, what did you do? Answer: I started running toward 33d Street and I saw people, so I turned around and started running toward the Park. Question: Where did you go then? Answer: Straight through the Park down to the river. Question: What did you do when you got to the river? Answer: I took out the wallet, took the money out, put the wallet back in and I closed the pocketbook and threw it in the river. Question: How much money was in the pocketbook? Answer: About $3. Question: What did you do with the lead pipe that you struck her with? Answer: I threw that in the river, too. Question: Can you tell me where in the river? Answer: It was further out than the pocketbook. Question: Can you tell me at [fol. 243] what point along the river bank you were when you threw the purse and lead pipe into the river? Answer: Across the road from the baseball field where the generator is located, which is enclosed by a barbed wire fence. Question: Will you describe the purse that you took from Giovanna Giambra? Answer: It was a black purse. Question: Silk, leather or suede? Answer: I think it was leather. Question: Any handles? Answer: Yes, it had handles. Question: What else? Answer: It had an emblem, a big gold emblem. Question: Did you notice the other contents of the bag? Answer: There was some keys in there, a wallet. Question: What else? Answer: A hanky and a compact and some personal items. Question: Where did you go then? Answer: I ran down the highway. Question: Towards where? Answer: Towards 10th Avenue Circle, up 10th Avenue to 28th Street and down 28th Street to 15th and 14th Avenues, and I ran down all through the yards to my back yard. Question: Which is where? Answer: On East 31st Street. Question: Then what did you do? Answer: I stayed home. I went into the house. Question: Who was home when you arrived? Answer: My father and my sister. Question: About what time was this? Answer: It was a little after 9:00. Question: What kind of a night was it on November 12, 1956? Answer: I am [fol. 244] pretty sure it was a clear night. Question: Did you have clear vision? Answer: Yes. Question: Was it light or dark at the point where you struck her? Answer: It was very dark. Question: Was it light or dark at the point where you first saw her? Answer: It was a little lighter. Question: Do you remember a light on the corner of Wall and 13th Avenue, a street light? Answer: Yes, there is a street light. Question: Will you describe the woman you struck? Answer: She was a good looking girl, about 20 to 25, wearing a dark coat, and a little shorter than me. Question: Do you remember which side of the head you struck her? Answer: I grabbed for her purse. Question: You grabbed for her purse on her right arm? Answer: Yes. Question: And you turned her towards you? Answer: Yes, and she faced me, she was fighting for her purse and I hit her on the right side of the head. Question: Then what happened? Answer: She didn't let go and she—so I hit her again. Question: What happened then? Answer: She fell down. Question: What did you see? Answer: I saw some blood. Question: Where did she fall in the road? Answer: About the middle of the block. Question: Which way was head facing? Answer: I don't remember that. Question: You don't remember that? Answer: No. [fol. 245] Question: Now, getting back to the time when you arrived home, did you speak to anyone? Answer: No. Question: How were you dressed on November 12, 1956? Answer: I had these pants on. Question: What kind of pants are they? Answer: Overalls. Question: And what did you have on over them? Answer: A black leather jacket. Question: Where is that jacket now?

Answer: Home. Question: Have you worn that jacket since November 12th? Answer: Maybe once or twice. Question: When? Answer: Usually when I go out," and in ink was added "at night" with the defendant's initials. "Question: When did you first wear this jacket after November 12th? Answer: About a month. Question: Why didn't you wear that leather jacket? Answer: Because I read in the paper she said it was a leather jacket. Question: Were you alone that night when you assaulted this woman? Answer: Yes. Question: Is everything you have stated in this statement the truth? Answer: Yes. Question: Was it given by you voluntarily? Answer: Yes. Question: Were you threatened or mistreated by anyone? Answer: No. Question: Were you threatened or mistreated by anyone during the entire period of your interrogation? Answer: No. Question: Were you given any promise of reward? Answer: [fol. 246] No. Question: When was the last time you have eaten? Answer: About ten minutes ago I had a glass of milk. Question: When prior to that did you eat? Answer: About 7:30. Question: What did you eat at 7:30? Answer: A sandwich, pie and coffee. Question: When did you eat prior to 7:30 this evening? Answer: Early this afternoon I had the same thing. Question: When did you eat prior to that? Answer: This morning I had breakfast at the Children's Shelter. Question: After you have read this eleven-page statement and made any corrections you find necessary, will you sign it? Answer: Yes," and then it is signed and witnessed.

BY MR. JOELSON:

Q Now, Detective DeSimone, after these two statements, S-5 and S-6, were signed, when did you next see William Monks?

A That same morning. Of course, we left him—I drove Probation Officer Jarmolowicz up here and then drove Officer Jarmolowicz home and that same morning —I left him here a little after 1:00—that same morning I would judge about 9:00 o'clock.

Q Now, did you see William Monks after February 27th at any time?

A Yes, I did.

Q When did you next see him?

A On February 28th.

Q And did you have a talk with him on that day?

[fol. 247] A I did.

Q What was the conversation on that day?

A The discussion was in regard to the weapon. We were endeavoring to find a replica of the weapon that he had described to us and we had upturned a certain type of metal used by the Telephone Company, we had rather a long length of about two and a half to three feet of this particular type metal and we brought it up to him and I showed him and asked him if that was the type of material that he had used, and he answered no. He said, "It is somewhat similar to that," but he said, "It has different holes in the center and it is more like an I-beam with round holes in the center," and at that time I told him that we were going to endeavor to locate this weapon that was placed in the river.

Q Did you speak to him after that date, after February 29?

A Yes, sir. On March 1st we came back here again, and I had succeeded in getting a shorter piece, a sample of which I have here, and I asked him about that and he said, "Well, it is just about the length, it is about the same weight but it is a little wider and it has larger holes," and at that time I asked him to make a diagram for me, and this was on March 1st, and he made a diagram which indicated the approximate size, and there is a circle on there that indicated the size of the holes in the center. The weight and the thickness he said were [fol. 248] about the same as the sample that I have here.

Q This piece of paper—who made those sketches?

A William Monks and it is signed by him on the top of the sheet dated March 1, 1957.

Q And who wrote these words "weight and thickness"?

A I wrote "weight and thickness same," and after I had done it I said, "How about the weight, Willy?" He said, "Same." I said "How about the thickness?" He said, "Same." I said, "Willy, will you sign this?" and he signed it. I believe—well, I know Mr. Jarmolowicz was present and I believe Detective Edmond was with me at this stage.

MR. JOELSON: I would like to offer this sketch in evidence.

MR. EVERS: No objection.

THE COURT: Is there anything on the other side of that, Mr. Joelson?

MR. JOELSON: No, sir.

THE COURT: All right.

(Sketch, received and marked Exhibit S-20.)

Q Were you ever at the Shelter in the presence of the defendant and his parents?

A That was on February 28th.

Q Who else was there?

A John Orr, who was then Superintendent here or whatever you call it, Detective Edmond, Probation Officer [fol. 249] Jarmolowicz, his mother, William Monks' mother and William Monks' sister, one of his sisters.

Q Do you recall any conversation at that time between William Monks and either one of his parents?

A There was no conversation relating to the crime in my presence. * * *

* * * *

CROSS EXAMINATION

BY MR. RUBENSTEIN:

Q Detective DeSimone, you say William had given you a story that he found this alleged weapon on a construction at 15th Avenue and 32d Street?

A Yes, sir. During the reconstruction he pointed out that spot. That is in one of the photographs.

Q He said he had found it in approximately February of 1956?

A That's right, sir.

Q You checked, did you not, to see if there was construction about that time?

A I did considerable work in that vein, sir.

Q You checked, did you not?

A Yes.

Q You found that there had been construction there at approximately that time?

A Yes, sir.

[fol. 250] Q Did you check with all the people involved in the construction?

A We spent at least a week, sir, Detective Edmond and I going to the Telephone Company, gas company, city engineer to check for permits. We went to various construction companies that do work on contract for the Telephone Company. Easily a week we spent trying to find a weapon such as the one that he described.

Q A very thorough job you would have had to have done?

A Absolutely.

Q And you never found such a weapon?

A We couldn't come up with any weapon. We could come up with one similar. I have a sample here.

Q You never came up with the weapon that he described, did you?

A No, sir.

Q You have never found the weapon he described, have you?

A No, sir.

Q You made an exhaustive search of every place that he told you he had thrown or put the weapon, did you not?

A Yes.

Q You have searched the river?

A Yes, sir.

Q You dug up where he told you to dig?

A Yes, sir, and we went beyond that and looked in places—once in your company I went underneath the porch of the furnished room house and crawled on my [fol. 251] hand and knees for perhaps an hour and a half and you were standing right outside the porch.

Q You never found a weapon, did you?

A No, sir.

Q Now, Mr. DeSimone, on the 26th, on the day when these statements, both oral and written were taken, Monks told you various stories, didn't he?

A In regard to what, sir?

Q In regard to either Weiss or Giambra.

A He told us two stories on Weiss and one story on Giambra.

Q Now, in regard to Weiss, he told you orally that he had done it in the afternoon?

A Yes, sir.

Q He recanted it?

A Yes, sir.

Q And then he gave you the written statement?

A Yes, sir.

Q Now, when he gave you the oral statement in the morning or in the early afternoon, he said he hit her with his fist, didn't he?

A Yes, sir.

Q And either you or Detective Ventimiglia said you knew that that could not be so?

A Both, I believe.

Q You knew it couldn't be so and you told him so, that it couldn't be so?

A Yes, sir.

Q And that is when he then said he used a lead pipe?

[fol. 252] A Yes, sir.

Q Which he described as circular?

A Yes, sir.

Q Because you wanted him to know that you weren't being fooled by anything he was saying if it was not so?

A We simply told him the facts, sir.

Q Then he continued with his story and he said he took this package, too, besides the purse?

A Yes, sir.

Q You knew that wasn't so?

A Yes, sir.

Q Did you tell him it wasn't so?

A No, sir.

Q At that point you didn't tell him?

A We asked him to give his version of the story and as he told it we put it down.

Q Why did you tell him that it wasn't true when he said he used his fist?

A For this reason—I said to him, "Willy, I don't believe you are telling me the truth." I said, "This woman couldn't have possibly incurred this injury, the type injury she had by someone striking her with a fist. Her head was fractured on the top," and I spoke his language, I said, "Willy, she would have to go up and do a sailor's dive on the sidewalk in order to get that type of fracture," and then he said to me, "Well, isn't it more [fol. 253] serious if you use a weapon rather than your fist?" I said, "Willy, I am not concerned with whether it is serious or not, I only want the truth from you." Then he says, "All right, I used a lead pipe."

Q But you had stopped him because you knew that what he was saying was not true?

A Yes, sir.

Q Well, you knew when he said he had taken the package that that was not true.

A Well, let's put it this way—

Q Answer the question. Did you or did you not?

A I wasn't exactly positive that he hadn't taken the package at that time because I had only made a cursory investigation of the Weiss crime and I was concerned more with the modus operandi rather than these small details. That was a small detail, whether or not a package was taken.

Q You think that was a small detail, that is why you didn't go into it?

A To me when I was digging into the modus operandi, how she was struck down, etc.

Q Then he told you he went to this house, is that correct?

A Yes, sir.

* * * * *

[fol. 254] Q William told you that there had been snow on the ground?

A Yes. I believe we mentioned that.

Q That was confirmed in the investigation, the reports, that there had been snow on the ground that night?

A Yes, sir.

Q And he told you he went to this house on the corner of 15th Avenue and East 31st Street?

A Yes, sir.

Q And that afternoon you went with him, isn't that correct?

A Yes, sir.

Q And you had him show you or re-enact the story that he had given you?

A Yes, sir.

Q You took him first—

A That afternoon it was simply, "point out the spot where you were standing; point out the spot approximately where you struck her down." Then we jumped in the car again and, "Now tell us where you went," and we were riding along the street and he said, "Well, I ran up here, then I went into this yard and into that door," so we got out and walked in and walked into the bathroom. That was the first time I had ever seen that bathroom.

[fol. 255] Q He said he had gone up the street, is that correct?

A Yes, sir.

Q Now, this house in question faces on 15th Avenue?

A Yes, sir.

Q The side of the house is almost to the sidewalk line? I am referring to the side that is on 31st Street.

A Within two feet.

Q Did he go directly up to the rear door?

A Well, there is a driveway there, behind the house there is a garage that faces 31st Street and he walked diagonally across this driveway right to the stairs, up the stairs and into the door. * * *

* * * *

[fol. 256] Q Mr. DeSimone, he told you that he came in a southerly direction up 31st Street, is that correct?

A Yes, sir.

* * * *

Q Suppose you show us by using the red pencil the direction that he told you that he took from this point when he reached the property line to get to the back door.

A I would like to clarify something at this point. [fol. 257] When he went with us we walked across the driveway and towards there. However, when he told us, he simply said, "I went in that back door, I went down this street and in that back door," so naturally the straight line is the shortest distance between two points, so we walked directly to the door, but he didn't specifically say that, "I walked right in these footsteps." He said, "I went in that back door."

Q Did you re-enact the crime with him at any time?

A Later on.

Q Did you walk over with him?

A Yes.

Q Will you show us which way he said he then walked?

A I couldn't fix it exactly but we went from the sidewalk—

Q Approximately.

A Somewhere from this point of the driveway in a diagonal direction to the bottom of the stairs. When he reached halfway up the stairs I said, "Hold it there, Willy," and then he stood there and I asked Identification Officer Garrity to take a photo at that point.

Q Then he testified that he went into the house, into this bathroom, is that correct?

A That is correct.

Q He told you, he didn't testify. He told you that?

A Yes.

[fol. 258] Q Did he tell you how long he stayed in the bathroom?

A Long enough to open the purse and remove the money.

Q In your impression that wasn't a very long period of time, was it? Five minutes, a few minutes?

A Long enough to take the money out. I don't know just how long he stayed in there. I know he took the money out, period.

Q Then he said he went back out which door?

A The same door.

Q The same door?

A Yes.

Q And he went where?

• • • •

[fol. 259] A It isn't clear. After he came out of the furnished room house immediately after the Weiss crime —in reconstructing, you mean?

Q Yes.

A Then he led us to the garbage shed.

* * * *

Q In other words, he went from this door—

A Came out this door. We all walked around here and he stood there and opened the garbage shed and I said, "which barrel, Willy?" and he pointed, I believe it was the second barrel, first or second, and I said, "Hold it there," and I said, "Jule, please take a picture," and he took another picture.

Q Would it be a safe assumption to say, Mr. DeSimone, that when he came out the back door and went to the garbage shed that he would have left footprints in the snow leading from the back porch to the garbage shed?

A Definitely. If there was snow there, definitely.

Q Did he say where he went from the garbage shed?

A He then went to the corner of Park Avenue and 31st Street.

Q Did he say what route he took to get from the garbage shed?

A Up 31st Street, directly up 31st Street to Park.

[fol. 260] Q Did he say how he got to 31st Street from the garbage shed?

A No, sir, but we came out this driveway again and at this point we entered our vehicle. In other words, if we were walking going along a street to a point where we were on the sidewalk, we rode slowly and he said, "I walked up here." When we got to a point that went off the sidewalk, then we got out of the vehicle and I walked with him.

Q So that he testified that he walked up 31st Street—

A Yes.

Q (Continuing.) —up to 15th Avenue?

A Yes, sir.

Q At least to 15th Avenue?

A Yes.

Q And is it a safe assumption to say that if he did walk there he would have left footprints?

A I believe so.

Q He would have left footprints in the snow?

A I believe so.

Q Now, the first time he told you the story, Mr. DeSimone, about the Weiss matter, did he not tell you that the only thing he took out of the purse was the money?

A Yes, sir.

Q He left everything else in the purse?

A No, no. I must correct myself there. The first time, the first story the purse and a wrist watch and [fol. 261] some other article were buried in that patch of ground, I believe it was on 26th Street where I dug. That is what I was looking for—we were looking for the watch and I forget—some other article, but the watch was one of them. That is what I was mainly looking for.

Q Did he say it was in the purse the first time?

A He said he had buried it.

Q With the purse?

A The first time—now I must correct myself—I was confused whether we were talking about the first reconstruction or the second.

Q I am talking about the first time—

A On the first one there was no talk of the garbage shed. That was on the second. On the first one he had buried it on 26th Street, I believe it was. I can check that with my notes.

Q The first time he told you this he told you this orally, is that correct?

A Yes, sir.

Q He told you he buried the pocketbook, is that correct, with the watch not at this address on 31st Street but in this empty lot—

A Not on 31st Street.

Q On—

A 26th or 25th.

Q Whatever street it was. Is that correct, he buried the purse with the watch?

A That's right.

Q Then subsequently he told you he just buried the watch and not the purse?

[fol. 262] A Well, we were proceeding under the assumption that something was buried, and when I got done digging there I walked over and he said, "I didn't do it, I didn't do it at all."

Q I didn't ask you that, Mr. DeSimone.

THE COURT: What was the question?

(The question was read by the reporter.)

A No, I don't believe there was any such exchange because the next thing he said was, "I didn't do it,". as I was digging, and I dug up a patch of ground bigger than this room, turned it over with a spade—

Q Were you in court when Detective Ventimiglia testified?

A Yes, sir.

Q You heard him testify, did you not?

A Yes, sir.

Q Did you hear Detective Ventimiglia say that when they approached there he then said that he had only buried the watch because he said you fellows have the purse?

A He might have said that but we thought perhaps the purse was in there.

Q I didn't ask you what you thought. Is that what he said then?

A No, I don't believe so. Perhaps he might have but I don't believe so.

Q Now, you asked him the questions concerning the Giambra matter, did you not?

A In the statements are you referring to, sir?

[fol. 263] Q Yes, the statement marked S-6.

A I asked every question in both statements.

Q Now, in that statement or before you took the statement he had told you a story, had he not?

A Yes, sir.

Q He had told you a story verbally.

A Twice.

Q And he told you—

THE COURT: Twice on Giambra?

THE WITNESS: Yes, sir, once alone and once in the presence of Detective Sergeant Ventimiglia, Detective Meola and Probation Officer Jarmolowicz, a half hour to three-quarters of an hour apart. He had told me the first story alone, then I didn't make any mention of it, we went out and we sat down and ate and didn't discuss the case at all. Then I said, "Willy, will you tell me the story again?" and as he told me the story I scribbled some notes.

Q And those times he told you that he threw this weapon into the river?

A Yes, sir.

Q He told you that the first time, he told you that in the room?

A Yes, sir.

Q Did he tell you that the second time?

A Yes, sir.

Q He told you that when you asked him these questions [fol. 264] in this confession?

A Yes, sir.

Q Subsequently you discussed with him again the question of what happened to the weapon?

A Yes, sir.

Q Did he tell you a different story?

A Not until March 2d of 1957 and that story was first told to Detective Edmond and subsequently to me.

Q On March 2d what did he then tell you about the weapon?

A On March 2d Detective Edmond went in and spoke with him with Probation Officer Jarmolowicz and then he came out and he said, "It isn't in the river," so I went in with him and I said I believe—no, Detective Edmond repeated what he had told him and he said that night—

Q Who said?

A Monks. He said, "That night as I was running, when I fell by that tree that I pointed out to you in the park I had the purse in my jacket and I had the weapon in my hand, when I fell I dropped the weapon. I picked it up and then ran not between the buildings or to the right of the buildings as I showed you, but to the left and I ran near the soldier's monument and there are two small cannons behind it and there is an umbrella like tree there and I threw the weapon under the tree.

I went down to the river, threw the purse in the river and continued home, as I had described. Two days later I was worrying about the weapon, I knew they were [fol. 265] searching, so I went to the park, I picked up the weapon, put it in my pants leg and threw it in the same garbage pail where I threw the Weiss purse."

Now, at this point I couldn't visualize—and Probation Officer Jarmolowicz and Edmond were with me—I couldn't visualize the park, the monument, I didn't remember offhand, so I immediately proceeded—

Q I think you finished answering my question.

A I am trying to clarify all I did in this vein.

Q He told you this story then, is that correct?

A Yes.

Q You will concede that the second story concerning what happened to the weapon is different than what he had previously told you?

A Yes, sir, and, of course, he had been confronted by Detective Edmond, and Detective Edmond told him the skin diver had been all over the bottom of that river and if the weapon were there they would have surely found it, and as a result he told this other story.

Q Did he say anything different other than the fact that the purse had been thrown in the river?

A No. He maintained—as a matter of fact, he said to Detective Edmond, "Well, you didn't find the weapon because it wasn't in there but you ought to find the purse."

Q The skin divers never found the purse, did they?

A No, sir. It was four months later.

[fol. 266] Q No one ever found the purse?

A No, sir, and I made many efforts, I went into a row boat and went down one side of the river and up the other on three or four different occasions. One day I spent ten hours in the river in a boat.

Q Very thoroughly?

A Yes, very thoroughly.

Q You examined all the nooks and crannies of the river?

A Every nook and cranny in the river.

Q And had skin divers go down?

A Skin divers only covered I should judge 25 to 50 feet in either direction of the point where he said he threw it in.

Q And no purse has ever been found?

A No, sir.

MR. RUBENSTEIN: That's all.

MR. JOELSON: That's all.

BY THE COURT:

Q Detective DeSimone, you first saw the boy on what day?

A I first saw William Monks on February 18 of 1957.

Q Now, from the time you saw him and all during the time you were present at any of these inquiries or questioning, was anything said to him by you or by anyone in your presence with reference to Officer Mahull's testimony about the tracks being made from the scene [fol. 267] of the Weiss crime to the house at 465 15th Avenue? Do you understand my question?

A Was anything said to him about those tracks?

Q Yes.

A Perhaps there was, sir, during the latter part of the interrogation, after we had established that he was in the custom of going to that house with Stopford.

Q Well, the Weiss statement says that he went to this house, doesn't it, and what I am trying to arrive at is this: Did he give you that statement before he knew that you knew about the tracks in the snow, or don't you recall?

A Before we knew of the tracks in the snow?

Q You knew about the tracks in the snow.

A Yes.

Q But did you or anybody in your presence before this statement was given tell him that you knew about the tracks in the snow?

A We might have, sir, but there is one thing I would like to clear up, sir. We saw him on February 18th and it was just a general conversation. Like I say, we were talking about purses, there was no reference to either Weiss or Giambra, but I had been on the Giambra investigation for almost a year then and it was only the fact that I had read in the paper about purses being buried and we couldn't find our purses that caused me [fol. 268] to—either Ventimiglia called me or I called him and said, "I think we ought to look into this," so we obtained permission from Judge Schamach, and then he say, "You can't speak to that boy unless you are with a Probation Officer," so I contacted Mr. Jarmolowicz. He went to the court, then we came up here. Now, when we—

Q Repeat that first conversation to me.

A Yes, sir. We came in and frankly on the way up Ventimiglia and I in the presence of Jarmolowicz were discussing—we said, "What are we going to ask him?"

Q Well, now, for the sake of evidential rules just tell us what was done in the presence of William.

A We walked into the room, introduced ourselves—he knew Jarmolowicz, I believe—we introduced ourselves and Ventimiglia started talking. The theme of it was, "Willy, we heard you are in on these crimes. Now, who put you up to this? Who taught you how to steal bags? Who told you to bury them?" and things like that. He said, "Nobody, nobody, man." Every other word was "man," very surly, and every other word was "man." "Oh, come on, you are only a pup, who put you up to it?" "No one." So then I got into the conversation. I said, "Willy, did you ever take any other bags in that general area?" He says, "Yes, I guess so." I says, "Willy, let's try to pinpoint some of these other thefts. Let's start [fol. 269] back with 25th Street. Did you ever take a bag along 25th Street?" I proceeded to 26th, on some of them he said, "Yeah, I think I took one there." I didn't elaborate. "How about 27th, 28th, 29th, 30th?" At this point he said, "I didn't hit that woman." I said, "What woman?" He says, "The Weiss woman, the one who was hit by the hospital." So I said, "When did that happen?" He says, "About a year ago." I dropped it right there.

"How about 32d Street, 33d Street?" We got varied answers. "Wall Avenue?" "I didn't hit that girl." "What girl?" "The Giambra girl." "When did that happen, Willy?" "November 12."

I said, "Willy, how do you remember that date?" He says, "Oh, I don't know, I saw it in the paper." I said, "Where were you that night?" "Oh, I was on the corner of 15th Avenue and 22d Street in the candy store." I said, "How do you remember Weiss?" He says, "Oh, I read it in the paper," he says, "It was snowing." I think he made reference at this point that it was snowing that night, so we dropped it right there. So we asked him one or two questions in that vein, "How do you remember this?" Then I asked him, I said, "Willy, are you willing to take a lie detector test if permission is granted by the court?" He said, "Oh, sure, they are fake, they can't tell you nothing." I said, "We are only interested if you are interested. Are you willing to take one?" He [fol. 270] said, "Sure, I will take it," and that was the last conversation I had with William Monks until the afternoon of February 26th from the time when we left the Shelter here, except perhaps to say good morning to him, because we then arranged a lie detector test for Thursday, February 21st, and in the interim the Judge forbade us from seeing him. Mr. Arther came in and we had to brief him, give him the information that we had. He put him on the test—

* * * *

[fol. 271] Q What about William's general physical condition on the 26th? He says he was tired and weary. Did you observe his condition?

A Yes, sir.

Q And what was his condition that you saw?

A I don't believe that he was—

Q From what you saw, now.

A Yes, sir. From my observations throughout the day he was bright, alert, at times very belligerent and surly, cursed many times. In intervals he would make outbursts when we would confront him with certain things and every other word was, "man, man, man," until the point when I had the talk that has been referred to so often as a fatherly talk. Thereafter he was calm and relaxed. As a matter of fact, after I had taken the second story, the second oral story, I summoned Mr.

Joelson, and Mr. Joelson came in and Mr. Joelson sat there and had a talk with him, he was bright eyed and wide awake, and I believe Mr. Jarmolowicz will bear out [fol. 272] that he seemed to lose that tenseness in the middle of my chat with him and for the first time didn't act like a tiger. As a matter of fact, he even threatened bodily injury to Mr. Arther at times.

MR. EVERS: I think that is an objectionable statement.

Q What did he say—

A To Mr. Arther?

Q (Continuing.) —that you heard? Did you hear any of these things?

A Yes, sir. One time I was walking in the room and Mr. Arther had come out and I went back in and I heard the end of a thing, "I will hit him with a chair," but he wasn't talking to me, he was sort of mumbling and it was the end of a conversation, "I will hit you with a chair," and Arther then came out and verified my—

Q I don't want to hear what Arther said unless he was there. Was he there?

A Yes, sir, he was in the room. This was at different times. Then he would relax and be semi-cooperative and then he would get belligerent again and surly, but in his conversation every other word was, "man, man, man."

Q When you went back to the park and said you couldn't visualize the cannons and the trees—did you go back to the park to see the situation?

A Yes, sir.

* * * *

[fol. 274] THE COURT: All right. Now, you have what exhibit there?

THE WITNESS: S-7, sir.

THE COURT: What does that show?

THE WITNESS: This shows William Monks standing alongside of a tree which is on the southeast corner of 13th Avenue and East 31st Street near the nurses' home, and it is the point where he said he stood while he was waiting before the Naomi Weiss crime, shortly before the crime.

THE COURT: Now, S-8, what does that show? Were you there when these pictures were taken?

THE WITNESS: Yes, sir. It was under my direciton that these were taken. This photo was taken before this one, sir.

THE COURT: S-8 was taken before S-7?

THE WITNESS: Yes, sir. S-8 is the corner of 15th Avenue and 32d Street where he said he found the weapon on February 24th during the day. That was the day of the Weiss crime in 1956.

* * * *

[fol. 275] THE WITNESS: Now, S-9, these aren't exactly in the sequence that we took them, sir. S-9 designates the point on East 31st Street and Park Avenue, the southeast corner where he buried the weapon after the Weiss crime. However, he explained that this construction wasn't going on at that time. In other words, there is an excavation right there. He is pointing to the general spot near the hedges but he said this hole wasn't there at that time. But I said, "Point to the spot anyway. Regardless of what the condition is point to the exact spot where you buried the weapon," and he did so.

* * * *

THE COURT: When did he say he dug that weapon up again?

THE WITNESS: He dug it up on November 12, 1956, and I believe he said they had started the con- [fol. 276] struction, but this hole, this excavation right here wasn't there when he dug it up, but when he buried it there wasn't anything there.

THE COURT: This is S-10—

THE WITNESS: S-10, he is pointing out the approximate spot where he struck down Naomi Weiss.

THE COURT: And the figure on the right is you and the figure on the left is Mr. Jarmolowicz?

THE WITNESS: No, Detective Ventimiglia.

THE COURT: Now S-11.

THE WITNESS: S-11 depicts the rear door of the furnished room house on 15th Avenue and East 31st

Street, and I might point out, sir, that this window is the window of the bathroom.

THE COURT: Indicating the window with two white squares in it in the upper left hand corner of the picture.

THE WITNESS: Yes, sir.

THE COURT: Mr. Jarmolowicz is in the dark coat and you are in the foreground?

THE WITNESS: Yes, sir.

THE COURT: And is that Detective—

THE WITNESS: Detective Ventimiglia.

THE COURT: And William Monks has his hand on the door knob?

[fol. 277] THE WITNESS: Yes, sir.

THE COURT: S-12.

THE WITNESS: S-12 is in the bathroom of that furnished room house on East 31st and 15th Avenue, and directly behind this shower curtain there is a bathtub and that is where that window lays that you were just looking at.

THE COURT: And that is Probation Officer Jarmolowicz?

THE WITNESS: Yes, sir.

THE COURT: S-13.

THE WITNESS: S-13 is William Monks pointing to a garbage pail in the shed where he said he disposed of the Weiss purse and subsequently the weapon used in both crimes. Of course, when he said he threw the weapon in the second time, he didn't specifically say that barrel but he said in the same shed where he threw the Weiss purse.

THE COURT: S-14.

THE WITNESS: S-14 is the southeast corner of 13th Avenue and Wall Avenue and he is standing in a position that he said he stood in on November 12, 1956, waiting for someone to come along. That was the night of the Giambra assault.

THE COURT: Is that S-14?

[fol. 278] THE WITNESS: S-14, yes, sir.

THE COURT: This is S-15. Where is 16? What does S-15 show?

THE WITNESS: S-15 shows William Monks pointing to a point on the easterly side of Wall Avenue between 13th and 14th Avenues—I would say closer to 13th Avenue, and he pointed this spot out as the point where the Giambra girl was when she first turned and started fleeing. In other words, he stated she was walking up this way and he came around the corner and started towards her and she turned and started running diagonally towards the Nuns' home.

THE COURT: According to William was she walking into the picture?

THE WITNESS: Yes, sir. He was up at this corner.

THE COURT: And she was walking—

THE WITNESS: Walking toward the picture, when he came around the corner she started fleeing diagonally across the street.

THE COURT: All right. S-16.

THE WITNESS: S-16 is William Monks standing in the middle of the roadway on Wall Avenue at a point approximately midway between 13th and 14th Avenue pointing to the approximate spot where he struck down [fol. 279] Giovanna Giambra.

THE COURT: S-17.

THE WITNESS: S-17 shows a point in East Side Park approximately 50 to 100 feet almost due east of the end of 14th Avenue, and I might add, sir, that previous to taking this photograph there was no mention whatsoever of this tree. As I stated previously, as we were reconstructing this crime, if he had walked along the sidewalk—we rode in a car, when we got to a point where he went off the sidewalk, I got out of the vehicle and I got out here on 14th Avenue right at the junction of the Park and—

THE COURT: You are indicating the street—

THE WITNESS: That is 14th Avenue.

THE COURT: (Continuing.) —on the left hand side of the picture as you are facing it?

THE WITNESS: Yes, sir. I got out of the vehicle and I said, "Now, Willy, walk in exactly the same direction as your ran on November 12th." As we were walking up this general direction towards this tree—it isn't visible in the photo clearly, but this branch comes right down close to the ground—Officer Jarmolowicz was on the other side of him and he suddenly stopped and he said, "I fell here." I then summoned ID Officer Garrity who was [fol. 280] riding with Detective Sergeant Ventimiglia back and had him point to the tree, and we took this photograph, but previous to this time we had no knowledge whatsoever of this tree, and he again referred to this tree in his last story on the weapon when he said, "You remember when I told you I fell at that point I dropped the weapon and I picked it up and ran the other way—" He changed his story from this point on just as to the running, the exact direction, and the weapon.

THE COURT: There is just one other picture there.

THE WITNESS: S-18. William Monks is standing on the bank of the Passaic River at a point almost due east of the baseball field in East Side Park near a generator which is on the easterly side of the highway, pointing into the river at the approximate spot where he said he had disposed of the purse and the weapon at this juncture.

THE COURT: Now, were all of these pictures taken the same day?

THE WITNESS: All of these pictures were taken on the same day, sir.

THE COURT: And what date was that?

THE WITNESS: February 27, 1957. I believe we [fol. 281] started at approximately 9:30 a.m. or thereabouts and it took us maybe a half hour to an hour and—

THE COURT: Now, the previous day, on the 26th, did you go on 31st Street with him and ask him questions with respect to the Weiss crime?

THE WITNESS: You mean as far as reconstructing, sir? Yes, sir, that is all that was done.

THE COURT: Nothing on the Giambra case?

THE WITNESS: Nothing whatsoever on the Giambra case insofar as reconstructing.

THE COURT: That was on the 26th?

THE WITNESS: On the 26th.

THE COURT: Well, then, from the time he first told you about the Weiss matter, you went out with him on the 26th and then you came back and took these statements, S-5 and S-6?

THE WITNESS: Yes, sir.

THE COURT: That's all.

MR. JOELSON: I have one or two questions on that, sir.

THE COURT: All right.

BY MR. JOELSON:

Q Now, when Monks made to you his oral statement concerning his role in the Giambra affair, did you have him identify any places on any sketches?

[fol. 282] A Yes, sir. We had a sketch, a diagram of the immediate area of the scene of the Giambra crime made at the outset of that investigation. I had one of these diagrams in my possession at that time.

Q I show you a diagram and ask you if this is the diagram that you had in your possession.

A Yes, sir.

MR. JOELSON: I would like to mark it for identification.

THE COURT: All right.

(Diagram, marked Exhibit S-21 for identification.)

Q Do you know who prepared this diagram?

A That was prepared by Mr. Charles Geiger, who does all our engineering work—surveying, rather.

Q Now, did you speak to Monks with this diagram in front of both of you?

A Yes, sir.

Q And was anybody else present?

A No, sir.

Q This was when he spoke to you at his request in private, is that right?

A Yes, sir.

Q What was that conversation?

THE COURT: When was that?

Q When was this?

A February 26th at approximately 8:46 p.m.

Q Was this after you were summoned from the luncheonette?

A Yes, sir.

(fol. 283) Q What was that conversation?

A I walked into the room and Mr. Arther said to me in the presence of William Monks, "Mr. DeSimone, Willy would like to talk to you alone." I said, "Very well." I closed the door and I turned to him and I said, "Yes, Willy?" and he said, "I want to tell you the truth, I will tell you the whole story." I said, "All right, Willy, start right from the beginning." He says, "On that night of November 12th I went to the corner of Park Avenue and East 31st Street and I dug up the weapon. From there I walked to East 32d Street, down Park Avenue to East 32d Street. I then proceeded down East 32d Street to 13th Avenue, up 13th Avenue to the corner of Wall Avenue. I was out looking for a bag." He says, "Then I stood and I saw a woman down about a block away, I saw her coming towards me." I said, "Willy, let me interrupt you just one moment," and I ran out into the outer room, picked up this chart and I came back, and I said, "Willy, first, before you carry on I want to explain something to you. This is Broadway, this is East 33d Street—"

THE COURT: The witness is now demonstrating on S-21 for identification.

A (Continuing): "This is East 33d Street, this is Wall Avenue, this is [illegible] Avenue. Now, this is the new St. Teresa Church. You recognize that?"

THE COURT: That is indicated on that as a brick (fol. 284) building, is it not?

A (Continuing): I said, "This is the playground." He said, "Yeah; I know." He said, "I played basketball in there." I said, "Very well. Do you understand this sketch?" He said, "Yes." I said, "Now, then, Willy, as you are describing it to me, point to the spots that you are designating," so he says, "Well, I stood right here," and he made a pencil mark, there is a little dot there.

Q Would you in red pencil encircle this dot?

A He made a dot there indicating the point where he was standing.

Q He made that dot himself?

A Yes, sir.

Q Go ahead.

A Then he said, "She came walking towards me, I took the pipe—" I think he said weapon at that time, perhaps he referred to pipe—well, at any rate, "I took the weapon out of my pants and I started towards her." I said, "Willy, about where was she when you started towards her?" He says, "Right here," and he made another dot, which is approximately an inch and a half to two inches from the first dot.

Q Would you mark a red X mark by that dot, please?

A An X?

Q Yes, alongside of it.

A Yes, sir (witness complying).

MR. EVERS: May we also have the record note when [fol. 285] Detective DeSimone referred to the juvenile as taking the weapon out, he gestured on the right side?

THE COURT: Yes, with his right hand. You mean indicating that he was drawing—

MR. EVERS: Drawing it out on the right side.

THE COURT: That is what the witness said.

THE WITNESS: Then he says, "She turned and started running diagonally towards the nurses' home," and then he said, "I chased her." "Did you catch her?" "Yes." "Where did you catch her?" He indicated around this general area.

I said, "Would you say this is about the spot where you caught up with her?" He said, "Yes." I said, "Willy, will you make an X there or a dot there?" and he made a third dot in the center of the roadway.

Q Would you mark a red Y mark there, please?

A Yes (witness complying). Then I said, "What happened?" If my gestures are going to be watched, I will try to remember it. He said, "I reached over and grabbed—" He said, "I was running sort of alongside of her, I grabbed her left arm where the bag was, she screamed, so I hit her. She didn't fall so I hit her again." He says, "She fell, I saw blood." He says, "I grabbed the bag and started running—"

[fol. 286] MR. RUBENSTEIN: May I ask the witness, was he making these gestures?

THE WITNESS: Not totally. I haven't said he made them, sir. He described that to me. Perhaps I am getting over zealous. He says, "I started running towards 13th Avenue or 14th Avenue and as I started to make the turn I saw people, a crowd in front of the school, so I quickly turned around and ran up 14th Avenue, through the park, went down to the river. I took the wallet out, took the money out, threw the purse and the weapon in the river.

MR. JOELSON: At this point I would like to offer S-21 in evidence.

MR. RUBENSTEIN: No objection.

THE COURT: All right.

(Exhibit S-21, previously marked for identification, received in evidence.)

THE COURT: This is a good point to adjourn until tomorrow morning. Now, so that we will know where we stopped—

* * * *

THE COURT: So we all know where we stopped [fol. 287] with the testimony of Detective DeSimone, he was telling us of the conversation that he had alone with William Monks and he was to the point where the boy had said that he had run through the park, so that is where we will start. * * *

* * * *

IN THE JUVENILE AND DOMESTIC RELATIONS COURT OF PASSAIC COUNTY

Docket No. J-1359
J-1360

STATE OF NEW JERSEY
IN THE INTEREST OF
WILLIAM MONKS

Paterson, New Jersey

BEFORE: HONORABLE HUGH C. SPERNOW, Judge

TRANSCRIPT OF HEARING—December 5, 1957

APPEARANCES:

CHARLES S. JOELSON, ESQ.,
Deputy Attorney General for the State

J. MORTIMER RUBENSTEIN, ESQ.
and
JAMES P. EVERS, ESQ.,
Attorneys for the Defendant.

|fol. 2| VINCENT DESIMONE, having been previously sworn, testifies as follows:

RECROSS-EXAMINATION

BY MR. RUBENSTEIN:

Q Detective DeSimone, do you know as a matter of fact following the incident involving Miss Giambra there was quite a bit of newspaper publicity concerning it?
A Yes, sir.

• • • •

Q Well, there were descriptions of the scene in the newspaper, was there not?
A It was described as happening at Well Avenue behind St. Theresa's Church. There were pictures of the

spot where Miss Giambra—a picture of the over-all block.

* * * * * *

Q Perhaps this will refresh your recollection; showing you the Paterson Evening News of November 13, 1956, there was a picture showing the location where the body was found, wasn't there?

[fol. 3] A Yes, but this is wrong. This arrow points to one of the convent homes.

MR. RUBENSTEIN: May I have this marked for identification, please?

THE COURT: All right.

(The above mentioned newspaper article was received and marked Juvenile's Exhibit J-2 for identification.)

THE COURT: And the observation the witness just made was with reference to J-2?

THE WITNESS: Yes, sir.

Q I show you the Morning Call of Wednesday, November 14, 1956, and ask you if you recall whether that newspaper also had a picture showing Father Lambert standing at the spot where Miss Giambra was found.

A Yes, sir, but north. These photographs are north and south. I mean, the one is looking—they are both looking in a southerly direction.

Q But it shows him standing on the spot where she was found?

A Not necessarily.

Q But in close proximity?

A He is standing in the general area, yes.

MR. RUBENSTEIN: May I have this marked for identification?

(The above mentioned newspaper article was received and marked Juvenile's Exhibit J-3 for identification.)

[fol. 4] Q Detective, you visited the scene of the Giambra matter the morning after, that would be the morning of Tuesday, November 13, didn't you?

A Yes, I arrived the morning of November 13, the early morning.

Q Was there any marks placed on the road where Miss Giambra had fallen?

A Marks?

Q Yes.

A No, but there was quite some blood, and in the blood there were some leaves and some dirt.

Q And there were quite a few people who were coming to see the scene, werent' there?

A Well, they weren't allowed to come to the scene, but they were around there.

Q And they could see quite obviously where this blood marking was in the road?

A They may and may not have, because we kept them down by the nuns' home and 13th Avenue.

Q You kept them away for how long?

A I think we kept that area more or less isolated all day and all the next day until we made a search of the lot behind the church.

Q And when you left the next day the bloodstains were still on the road, weren't they?

A I believe so.

Q In fact, they were there for about a week after [fol. 5] that, weren't they?

A I believe so.

Q So anybody had free access to that spot the day after, which would be the 14th?

A Yes, sir.

Q Anybody coming through that spot could have seen the blood spots?

A Yes.

Q You don't know whether Willie Monks was up at the scene on the 13th, the 14th or the 15th, do you?

A No, I don't know.

Q You would say that if he were up there and walked by he could have seen the blood spots as well as anybody else?

A No doubt.

Q And have known the location where the body was?

A No. doubt.

Q Now, Mr. DeSimone, referring to S-21 for identification, you had placed a red pencil mark, a red circle around where Willie told you in this conversation he had with you where was standing on the corner of 13th Avenue and Wall Avenue. Is that correct?

A It's designated there.

Q A red circle?

A Red circle.

Q And then you placed an X mark where he said he started to approach the woman and she saw him?

A That's the spot where the woman stopped walking in a northerly direction and turned and started running in a southerly direction. That is diagonally across the street.

[fol. 6] THE COURT: Are you referring to S-21?

MR. RUBENSTEIN: S-21 for identification.

THE COURT: I think it's in evidence.

MR. RUBENSTEIN: It's marked for identification.

MR. JOELSON: I offered it.

MR. EVERS: It's in evidence.

Q At that time did he tell you about how far from the corner that was?

A I think I can refresh my recollection.

Q Will you refresh your recollection?

A I think he told us she was fifteen or twenty feet, yes, when she reached a point approximately twenty feet from him he stepped from behind the wall with the weapon in his hand.

Q You tell us that on reconstruction he showed you a spot where he alleged she turned. Is that correct?

A Yes.

Q That reconstruction was on February 27, the next day? I show you S-15 in evidence.

A Yes, sir, that's correct.

Q Would you agree that that is more than fifteen feet, more than twenty feet from the corner or the spot where he indicated he was standing?

A I'd say approximately twenty feet. If you will note with the photograph there are cement blocks, and if [fol. 7] you count from the point here there is eight, and they are about three feet from line to line.

Q That would be twenty-four feet?

A Well, seven times three and another block is twenty-four.

Q And then he told you that she tur[illegible]d and started to run, or started to hurry away?

A She started to run.

Q And did he say that he started to run after her?

A Definitely.

Q And can you tell us what distance there was between the point he indicated on the map, or from the point he indicated on the reconstruction to the point where the body was found?

A It's only a guess.

I'd say forty to fifty feet, but I am only guessing.

THE COURT: Will you proceed, Mr. Rubenstein.

Q Getting away from that for a moment, when you showed him this map, you told us—am I correct in this statement—that you then asked him where he caught up with her?

A Approximately where did he catch up with her.

Q And then you said, "Would this be approximately where you caught up to her?"

And he said, "Yes."

A I said, you make a dot on the spot where you fig- [fol. 8] ure you caught up with her, and he made another pencil dot.

Q Didn't you say on your direct examination, or on examination by Judge Spernow, that you said to him, "Is this approximately where you caught up" and—

A I started off where were you standing as we were going over these steps and he says, "Behind the wall."

And I said, "You put a dot at the spot where you were approximately standing and where she was when she first turned around." I said, "Put a spot in that spot," and I said, "Where did you catch up with her?", and I said you put a dot where you first caught up with her.

Q I don't presume that you have the notes that were taken from yesterday.

THE COURT: I remember the testimony, Mr. Rubenstein.

Q Now, Detective, the church building, the school building, there are two entrances to the school building, are there not?

A I believe there are more than two. I believe there is one here, one here and there is another one here, and then you go—you can also get in from the foyer of the church and go in here, so there are exactly four entrances.

Q Do you know which entrances were open that night? Did you make that investigation?

A We found on the night of this that the C. Y. O. [fol. 9] meets. The members were in the habit of meeting here and entering the foyer of the church and going down the corridor or otherwise congregating there.

Q In other words, the first entrance you came to is the 33rd Street entrance, that's between 13th and 14th Avenues, and the other entrance is the entrance leading from 14th Avenue approximately fifty feet east of 33rd Street?

A Yes, sir.

Q Now, you know where Miss Giambra lived, didn't you?

A Yes, sir. To get from her house to East 33rd Street, the entrance on East 33rd Street or the 14th Avenue entrance, she would have to traverse Wall Avenue.

THE COURT: I think if you will reframe that, Mr. Rubenstein. You have to assume how she is going to get there.

Q Whether it be by automobile or by car, if she came from her home, her home is to the—

THE COURT: West.

Q To the west of the building. Is that correct?

A Yes, sir.

Q To get to Wall Avenue from her house she would have had to pass both of the entrances which she normally would have taken. Is that correct?

A Yes, sir.

THE COURT: Not necessarily if she came on a bus. [fol. 10] Suppose she came on a bus to Broadway and she walked down Wall Avenue.

MR. RUBENSTEIN: The bus would lave her off at 33rd Street.

THE COURT: Would it?

MR. RUBENSTEIN: Yes.

THE COURT: Can you establish that? Do you know, Mr. DeSimone, where the bus stops are?

MR. RUBENSTEIN: I know as a matter of fact the bus stops are—

THE COURT: Do you know where the bus stops are after 33rd Street?

THE WITNESS: Well, sir, in all fairness I know that in that particular time period that none went up Broadway.

THE COURT: None at all?

THE WITNESS: None. That was checked thoroughly.

Q So she would have gotten off at East 33rd Street if she took a bus?

A Yes.

Q She could have come up East 33rd Street to either entrance, couldn't she?

A Yes, sir.

Q Wall Avenue lies beyond, further in the direction from which she was going?

A Yes, sir.

THE COURT: I think that is about forty feet to the inch. I am judging that because the streets, as they are [fol. 11] indicated on this map, are about an inch wide, aren't they?

MR. RUBENSTEIN: Three-quarters of an inch on Wall Avenue and just about an inch on 13th and 14th.

THE COURT: Why don't you call up Mr. Geiger and ask him what the scale to this sketch is?

Q In accordance to this if she turned here she would have to go completely along the rear of that property?

A Yes.

Q That property runs at least one hundred feet back on Wall Avenue, would you say?

A Yes, sir.

THE COURT: Does it front on 13th?

MR. RUBENSTEIN: The long side is on Wall Avenue. The number may be on 13th Avenue but the long side—

THE COURT: We have a picture here.

MR. RUBENSTEIN: We just have a partial picture. May I withhold that until we get some sort of an idea if this was drawn to scale?

THE COURT: All right.

Q She would have to run on a diagonal completely back from the brick wall, completely along the property of the corner house, right?

A Yes, diagonally, of course.

Q She would have to cover the area completely to the end of that corner house?

A Yes.

[fol. 12] Q In accordance with this, she would have had to traverse most of the property of this building marked 195 Wall Avenue?

A Yes.

Q That property is at least seventy-five feet?

A Yes.

Q So would it be safe in assuming that the distance she ran would be in excess of one hundred feet?

A Possibly.

THE COURT: If possible, Mr. Rubenstein, I would like you to finish without any reservations with the scale, if you can do it. If not, if we continue on Monday I will bring in a scale map.

It may be possible to get Mr. Geiger.

MR. JOELSON: I will find out the scale from Mr. Geiger. He has a record of it.

• • • •

[fol. 13] Q Directing your attention to the day of the questioning on the 26th, did you have any discussion with Willie concerning how correct or how infallible the results of a lie detector test was?

A That I didn't, no.

Q You never did?

A No.

Q Did you tell him that the lie detector test says that he is lying?

A No, not in them words.

Q What words did you use to indicate that the lie detector test showed such a result?

A I might have said Willie, how do you account for the fact that you were shown five pocketbooks and you got a reaction only on one pocketbook. In other words, five pocketbooks were placed in a box. Mr. Rogers showed him one at a time and on that machine there was a straight line, but when he got to the Weiss pocketbook it showed a reaction.

• • • •

[fol. 14] Q Did you at any time tell him the lie detector test said that he wasn't telling the truth in any incident upon which he was tested?

A Not exactly in those words. I made a comparison rather than saying—

• • • •

[fol. 15] Q Did you in one form or another indicate to him that the lie detector test indicated that he was not telling the truth?

A Yes, I would say so.

Q And on how many separate occasions would you say that you so indicated that to him?

• • • •

THE WITNESS: I had to go into certain phases.

• • • •

Q How many different occasions did you so convey the meaning to him?

A Well, it wasn't too many, because I don't want to go into things, sir, in most cases.

Q I didn't ask you that. About how many times would you say, Mr. DeSimone?

A I wouldn't say no more than two or three times.

Q You mean to say that during the whole day of [fol. 16] questioning only two or three occasions you inferred to him that the lie detector indicated he was not telling the truth in certain particulars?

A Yes.

And you kept questioning him off and on from
[illegible] in the morning until seven o'clock at night?
No, that isn't so at all, sir.
From what time?
I didn't start questioning him until I'd say mid-
oon, three o'clock. I had not said a word to him
February 20th except hello. On the 21st I didn't
word to him except greet him. On the 26th I
say a word to him until three o'clock in the after-

You have given us the time, three o'clock?
Approximately. Mr. Rogers had been conducting
ed at the museum.
From approximately three o'clock in the afternoon
seven-thirty at night, you were interrogating him,
you not?
I beg your pardon?
You were interrogating him on and off, were you

On and off.
And you did during that period only two or three
did you indicate to him that in certain particulars
e detector test indicated he was not telling the

That's correct, because we made no reference to
[illegible]

REDIRECT EXAMINATION

BY MR. [illegible]

Mr. [illegible], I notice that the statements that
marked in evidence, I think S-5 and S-6, the de-
r referred to directions such as westerly and east-
nd southerly. At that time that he gave his state-
was there any sketch in front of him with direc-
marked on it?
Yes, sir.
And those had directions west and east and north
with indicated on them?
Yes, sir.

Q Now, I show you S-9 for identification and I ask you if you have ever seen it before.
A Yes, sir.
Q Now, what is it?
A That was a key that was given to me.

* * * *

Q When did this key come into your possession and under what circumstances?
A On November 15 in the early morning Mr. Giambra gave me this key.
Q What is his first name?
A Mr. Stephen Giambra who testified in this very room yesterday.

* * * *

Q Did you ever give this particular key to Mr. Arthur?
A Yes, sir, on February 26th in the early evening I turned this over to Mr. Arthur and then after he returned it to me.
Q That same evening?
A That same evening, and I have had it ever since.

* * * *

[fol. 19]

FURTHER RECROSS-EXAMINATION

BY MR. RUBENSTEIN:

Q Mr. DeSimone, you had a sketch with directions marked on it. Was that used at the time the statements were taken?
A Yes, sir.
Q Do you have that sketch?
A Yes, sir.
Q Will you produce it, please?
MR. RUBENSTEIN: May I have that marked for identification, please?

(The above mentioned sketch was received and marked Juvenile's Exhibit J-4 for identification.)

Q. Who prepared this sketch, Mr. DeSimone?

A I did, sir.

Q Was this sketch completely prepared before the interrogation, before the questioning?

A Yes, sir.

Q Now, am I correct in saying on one side it shows the area involved in the Giambra matter, and—

A Yes.

Q —on the other side it shows the area involved in [fol. 20] the Weiss incident? Is that correct?

A Yes, sir.

Q Now, on the side indicated with the Giambra matter there are two X's placed, one at the intersection of 13th Avenue and Wall Avenue and one midway on Wall Avenue between 13th and 14th. Those X's were placed by you. Is that correct?

A Yes, as I recall it I made the X and I wrote the southeast in the same way I put the north here.

Q. You say that X is in his handwriting and not in your handwriting?

A I believe so. Maybe I made those X's.

Q They were made before the statement started, weren't they?

A I would like to explain the entire procedure.

Q I asked you if they were made before the written statements, written confessions were taken?

A The diagrams were made but the X's and the southeast weren't necessarily put in there.

Q Were they or weren't they? I didn't ask you that, Mr. DeSimone, I asked you whether they were or they weren't.

A I don't believe so. I think I had south, west, east and north, 13th Avenue, 14th Avenue, Wall Avenue and 33rd Street on it.

Q You say you were writing those things in as the [fol. 21] questioning was going on?

A I believe it was marked like this. He said, I was standing on the corner of Wall Avenue and 13th Avenue, and I said where, and he said here and perhaps I scribbled it in.

THE COURT: On Exhibit J-4 for identification, what date was that used? You have it marked there.

THE WITNESS: February 27th.

THE COURT: That is the day after. Is that right?

THE WITNESS: What?

THE COURT: The day after.

THE WITNESS: No, this is right after the statement. In other words, the statement ended at one o'clock on February 27th, and I marked it on the top. I made a notation used to take statement 2 27 57, 1:30 a.m. In other words, after we had completed both statements I made this notation on here.

THE COURT: Now, S-21, however, was used by you privately with Monks earlier?

THE WITNESS: This was used much earlier.

THE COURT: S-21 you are referring to?

THE WITNESS: 8:25, and in the interim he talked to Mr. Joelson and then we waited for a stenographer, and for the purposes of clarity I said to him, William, when you describe things in the statement you can't say I ran down this side of the street or something like that, I [fol. 22] said you will have to give directions; so that you understand I will make these rough drafts. They were just sketches, and I pointed out north, south, east and west, and when it came to like the corner, I think the corner of 13th Avenue and 31st Street I put a little notation of the exact corner it was, and as he was telling the story he would look at it.

THE COURT: That is all J-4?

THE WITNESS: And he was referring to that as he testified. First I made it clear before he started asking him questions, I told him you will have to give directions, you can't say this side or this street or that side, so that we understand where you were and what was going on.

Q I will ask you again, were those X marks and the SE and the S placed on before the statement started?

A No, definitely not.

Q It was placed on, you say, during the same time?

A As he was progressing, when he came to a specific spot he put it on.

Q Did you ask him to indicate on the map?

A No, it was all clear to us. We had gone over that time and time again.

Q I want the procedure. You say he had this map in front of him. As you tell us this map was—

[fol. 23] A He didn't have this map in front of him.

Q No. J-4 in front of him. Is that correct?

A Yes.

Q As he was giving the statement?

A Yes.

Q At what point was the X mark indicating at the corner of 13th Avenue and Wall Avenue placed on that sketch?

A When he stated on that corner.

Q When he stated what? That he was—

A That he went up to that corner.

Q And then you placed the X mark on there, or did you ask him to place it on?

A I don't recall exactly. I might have and he might have. I don't recall it.

Q Did you ask him to indicate on that map where he was standing?

A No, I had done that previously. We were in agreement up to that point. He had explained minutely to me. The only thing I was trying to clear up was for the directions so he could clearly describe it on paper. I understood it. He had pointed it out to me, but for someone reading that statement I wanted to make that clear exactly what he was telling me and that is the only reason that was used.

Q If you will just answer my questions.

A I am trying to, sir.

Q In the confession which was placed into evidence, [fol. 24] Is there any reference to this sketch?

A None whatsoever, I don't believe.

Q Isn't it true this sketch and the X's and everything on it was placed and finished before the transcript was taken of the confession?

A This was finished?

THE COURT: Detective, that can be answered yes or no.

THE WITNESS: I don't understand it.

THE COURT: Will you read it, please?

(The last question was read by the Reporter.)

THE WITNESS: No, I wouldn't say that.

THE COURT: You have answered the question. There is no question pending.

Q. So it is your recollection that the X's and the other marks were placed on after the confession was finished?

A No.

Q During the confession?

A Yes.

Q By whom?

A That I don't recall exactly. I know the SE and the east side and all directions were placed on there by me, but I don't recall exactly—and the arrow, but I don't recall exactly who placed the X's there.

Q Do you recall whether he was asked in the questioning to place an X any place?

[fol. 25] A No, he wasn't asked that question.

Q Was he asked at any time in that confession to refer to a sketch?

A He was referring to it constantly, and he had that sketch right in front of him.

Q Detective DeSimone, so that we get along better, I didn't ask you that. I asked you whether he was asked in the questioning to refer to a sketch?

A No, not in the statement.

Q Now, I show you the other side of J-1 concerning the Weiss incident. There are two X's indicated on that, one at the intersection of 13th Avenue and 31st Street, an X with SE, and then another X on the westerly side of 31st Street between Broadway and 13th Avenue, and I ask you who placed those X's and the letters SE on the map?

A I don't exactly recall.

Q Can you tell me if that was done before the statement, the stenographic statement was taken of Willie Monks on the Weiss matter?

A With the exception of the X's, yes.

Q Everything was on there?

A Before the statement.

Q The SE?

A I don't believe that was there either. I think the sketch, the streets and the four directions were on there.

Q Well, the SE is in your handwriting, is it not?

[fol. 26] A It's all in my handwriting and the X I am not certain of.

Q Can you tell me when the SE was placed upon that sketch?

A I believe SE was placed there when he referred to the southeast corner, to that corner.

Q Did he ask you to put it on?

A No.

Q Did anybody ask him to indicate on a sketch during that questioning where he stood?

A That was all clear already, sir.

Q I didn't ask you that, Mr. DeSimone.

A I don't recall. I don't believe so.

Q I just want one thing cleared up for the record, Mr. DeSimone. Yesterday in your testimony you stated that Willie said that after this—after he said he hit Miss Giambra that he ran towards the nurses' home. Did you mean nurses' home?

A No, nuns' home.

Q Was it a mistake just in the use of the word?

A No, that is a convent on the corner of 13th Avenue.

Q I thought you may have been mistaken.

A If I said that it was an error.

MR. RUBENSTEIN: That's all.

[fol. 27]

FURTHER REDIRECT EXAMINATION

BY MR. JOELSON:

Q Just for the purposes of clarity, after Willie Monks told you about the Giambra assault, did he then repeat that same general story in the presence of others?

A Yes, sir.

Q Before he made the written statement?

A Yes, sir.

Q And who were those others?

A Detective Sergeant Ventimiglia, Probation Officer Jarmolowicz, Detective Joseph Meola, and Mr. Arthur might have been standing in the room. I don't recall exactly.

* * * *

[fol. 67] THOMAS EDMOND, sworn.

DIRECT EXAMINATION

BY MR. JOELSON:

Q Detective Edmond, by whom are you employed?

A Passaic County Prosecutor's Office.

Q Now, did you ever have occasion to go to the home of William Monks, or his parents at 296 East 31st Street?

A I did.

* * * *

[fol. 68] Q What date was this?

A Well, this was on February 27, the morning of February 27 about two o'clock I went to the home.

THE COURT: 1957?

THE WITNESS: That's right, but previous to going to the home I had a conversation with William Monks in the Court Stenographer's room just after he finished signing his statements, and in particular I refer to Exhibit No. 6. He was sitting at the table reading it over, making corrections and signing it and I picked up the other copy and read through it. When I came to the part about the leather jacket, Willie at that time had finished signing. I said, "Bill, how about this leather jacket? Where is it now?" He said, "It's at my home."

I said, "Is it there now?"

And he said, "It was there six weeks ago when I left home."

I said, "Just whereabouts in your home is it?"

He said, "It's in the rear hallway of the first [fol. 69] floor."

I said, "How will I be able to identify the jacket when I see it?"

He said, "It's black and the leather inside by the zipper it has a hole in it."

And with that there was an autopsy picture lying face down. It was used previously in the questioning but it hadn't been seen by him. It was the autopsy picture which shows the two blows to the scalp.

Q Are you referring to the picture that is marked S-26 in evidence?

A That's right. It was lying face down on the table. We had not showed that to him so he looked over at the picture and he said, "Can I see how hard I hit her?"

And with that I gave him the picture and he studied the picture and about two o'clock that morning I went up to his family's place of residence on East 31st Street and I talked to Mrs. Monks. As a result of my conversation with her I went into the house and went to the rear hallway and found this jacket hanging on a hook in the rear hallway. I also searched his room on the second floor and also a room he occasionally uses on the third floor.

* * * *

(fol. 70) Q I show you a jacket and ask you what it is.

A This is the black leather jacket I got from the home of William Monks. I identified it particularly by this big hole here which he likewise identified it by and also by initials here, T. R. F.

MR. JOELSON: I would like to offer this in evidence.

THE COURT: No objection it will be marked.

(The above mentioned jacket was received and marked State's Exhibit S-28 in evidence.)

Q Now, after you obtained this jacket did you talk further with William Monks?

A The following morning, that would be the morning of the 27th about nine o'clock, 9 a.m., he was brought to our office by Probation Officer Jarmolowicz. At that time I showed him the jacket and I said, "Bill, is that the jacket you wore that night?"

And he says, "Yes."

* * * *

CROSS EXAMINATION

BY MR. RUBENSTEIN:

[fol. 71] Q You had reference to a picture you had. You said we didn't show him that picture. Had you shown him any other pictures?

A Well, you say "we". I wasn't with him all the time the questioning was going on. I came in late.

Q Had you shown him any pictures?

A No, I had not shown him any pictures whatsoever.

Q You said you used that picture in the questioning?

A It was used in the questioning.

Q How was it used in the questioning, tell me.

A Well, they were asking about the number of blows struck and they referred to it.

MR. JOELSON: Were you there during the questioning?

THE WITNESS: I was there during part of the questioning.

MR. JOELSON: What time of the day?

THE COURT: Counsel is examining.

Q What time was this?

A This was between 12:30 a.m. and one o'clock in the morning when DeSimone had taken that statement from him.

Q How was that picture used in the questioning, Detective Edmond?

A To the extent that they asked him how many blows he struck, and, of course, they would check the picture when he said two blows.

[fol. 72] Q Was that used only for them to check?

A That's right.

Q But you don't know whether it was shown to him previously?

A To my knowledge it wasn't shown to him previously.

Q Not in your presence?

A That's right.

Q No pictures were shown to him at all?

A To my knowledge, no.

Q Wasn't a picture of the officer pointing out the spot shown to him?

A To my knowledge, no.

Q To your knowledge means as far as you know it was not shown to him?

A That's correct.

• • • •

(fol. 76) CHESTER JARMOLOWICZ, having been previously sworn, testified as follows:

DIRECT EXAMINATION

BY MR. JOELSON:

Q Mr. Jarmolowicz, I believe you testified before that you were instructed by Judge Schamach to do what?

A I was instructed by Judge Schamach to be with the boy at all times when the boy was being questioned by the detectives. Might I elaborate just a little further. (fol. 77) I was instructed to be there because I was to see to it that the boy was not abused in any way or taken advantage of or exhausted or placed in a position where he might say something that his physical condition probably would not allow him to say otherwise.

Q Now, do you know when you were given those instructions?

A Yes, I was given those instructions on the 18th of February.

Q Now, on November 18, were you present when Monks was interviewed by the detectives?

A November?

Q I am sorry, February 18th.

A Yes, Detective De Simone and I spoke to him and I believe it was described before he seemed to know the answers to these particular offenses so glibly.

THE COURT: That's a conclusion. Tell us what was said.

THE WITNESS: Well, I believe he described the offenses.

THE COURT: As best you can recall.

THE WITNESS: I remember him saying there was snow on the ground then. I am sorry, I can't elaborate.

Q. What I am trying to get out is not so much what was said but as to whether you were with the boy on February 18th whenever he was interrogated.

[fol. 78] A. Oh, yes, yes.

Q. Do you know when he was next interrogated or questioned after February 18th?

A. The 21st in the afternoon.

Q. Where was he interrogated?

A. At the Grand Jury anteroom.

Q. Who brought him to the Grand Jury anteroom?

A. I did.

Q. And was he given a lie detector test that day?

A. Yes.

Q. Were you present when he was given the lie detector test?

A. I was not in the testing room. I was in the main room.

Q. And did you turn him over to the person who was to administer the test?

A. That's right.

Q. And after the test was he returned to your custody?

A. That's right.

Q. And who returned him back to the Children's Shelter?

A. I believe I did.

Q. Now, when was he next questioned to your knowledge after February 21st?

THE COURT: For what length of time did these things take?

Q. What length of time did this lie detector test take?

A. The whole period that he was in the room I think [fol. 79] was about thirty or forty minutes.

Q. When was the next time he was interrogated to your knowledge?

A. On the 21st of February. I am sorry, on the 24th.

Q. Now, what time did he leave the Shelter, if you know?

[illegible] after nine and brought him back [illegible] to the anteroom in the [illegible] in the Courthouse.

[illegible] when you brought him there, did you turn [illegible]

[illegible]

[illegible] the room then alone with Mr. Ar- [illegible]

Yes.

[illegible] for how long?

Well, [illegible] it was more than twenty min- [illegible] minutes that I recall.

[illegible] for the remainder of this day, [illegible] the incidents in which the boy [illegible] your knowledge?

[illegible] incidents?

[illegible] which he was questioned.

[illegible] around four o'clock.

[illegible] between the morning and four [illegible] was he questioned?

Well, I believe, [illegible] and Stopford were brought in [illegible] which took time.

[illegible] and Stopford were ques- [illegible]

[illegible] the main Courtroom.

[illegible]

[illegible] and, I believe, Detective Ventimiglia.

[illegible] did the boy on the 20th leave the Courthouse [illegible] That is, did he leave the Court- [illegible] to people who took him [illegible] out of your presence?

[illegible] period when the question- [illegible] for the hidden item. I believe [illegible] and Detective Ventimiglia, I believe, [illegible] in the car to see if they could [illegible] that he said he had buried.

[illegible] How long was he gone?

[illegible] than an hour, probably an hour.

And when he was brought back to the Courthouse [illegible] there?

Yes.

Q And the rest of the 26th, was he ever questioned outside of your presence?

A No.

Q Well, I call your attention to the subsequent lie detector tests. Were you present at the lie detector tests?

A I wasn't in the room but I was waiting outside that room.

Q And when the boy spoke to Detective DeSimone [fol. 81] alone on the 26th, where were you?

A I was in the other room.

Q By the other room what do you mean?

A In the main Courtroom.

Q And where was he?

A The boy was in the testing room, the anteroom.

Q Did you ever hear anybody yell or holler at the boy?

A Not to my knowledge, no.

Q In your opinion was the boy in your presence abused in any way?

A No.

MR. JOELSON: That's all.

CROSS-EXAMINATION

BY MR. RUBENSTEIN:

Q Mr. Jarmolowicz, you were present at the time the confession was taken, were you not?

A That's right.

Q I show you J-4 for identification, this is the sketch that was used at the time; were you present when that was prepared?

A Yes, I was in the room.

Q To your recollection who prepared it?

A Mr. DeSimone drew these squares and marked the walls in and north and south.

Q To your recollection did Billy Monks make any marks on that sketch?

A My best recollection is that he may have pointed [fol. 82] to a spot at which either he or Mr. DeSimone marked it.

Q Was that during the questioning or before the questioning?

A I think it was during the questioning.

Q Do you remember if there was any reference in the questioning to a sketch?

A No, he was just—he said I am going to show you a sketch of the area and I want you to point out to me where you stood and so forth.

Q During the questioning was he asked, or after the questioning?

A You mean the official questioning?

Q The official questioning.

A This was where?

Q All of these were put on before the final questioning began?

A Oh, no, no. When the questioning—wait a minute, no, this was, I believe, used when the statement was taken in order that he would have a clear understanding as to what he was saying.

Q I am asking you were these marks, the X's and everything, the streets and all the markings on there put on before the questioning, the transcript of the questioning was taken?

A Yes, I believe so.

Q And would that be the same thing concerning this location of the alleged scene of the Weiss incident?

[fol. 83] A Yes.

Q The X's and everything were put on in advance before the questioning?

A In his presence.

Q In his presence but it was all done in advance?

A Yes.

Q And you used this during the questioning?

A That's right.

Q And this was done by Detective DeSimone?

A That's right.

Q Now, Mr. Jarmolowicz, I am going to ask you certain questions. I am going to try to parallel the testimony of Mr. DeSimone. If I am wrong in anything I say will you please tell me so.

A All right.

Q You were present at the time after Mr. DeSimone came out of his private conference with Billy?

A Yes.

Q And did Billy then orally tell the story of the Giambra matter?

A I believe he did, yes.

Q Is this correct that Billy said that he was standing at the southeast corner of 14th Avenue and Wall Avenue?

A Well, I wasn't really listening to the exact testimony because I was just there to see that he was not browbeaten or shouted at.

Q Do you recall whether that was said or not?

[fol. 84] A I don't recall.

Q Do you recall whether it's true whether Billy said the girl was walking up towards him on the easterly side of Wall Avenue?

A I believe I heard him say that, yes.

Q Did you hear him say that when she got to be about twenty feet away from the corner he took the weapon out with his right hand and stepped out and that she saw him and turned around and started to run back towards 14th Avenue?

A Yes, I think I heard that too.

Q Did you hear him say that he then chased her?

A Yes.

Q And did you hear him say that he grabbed her with his left hand, grabbed the purse which she was carrying in her left hand?

A I am not sure. I think he grabbed the purse on her arm.

Q And that she turned towards him?

A That's right.

Q Indicating that she turned from the left to the right towards him?

A. I can't say I remember that whether she turned or not. Whether she turned left or right I don't remember. I remember he said he turned to her and he hit her. I believe he said he hit her from the right. She was turning. She may have turned to the left.

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[fol. 101] MR. JOELSON: If the Court please, subject to the production of Dr. Giambra and Mr. Geiger I am ready to rest the State's case.

THE COURT: No objection. I take it you are following this procedure so that we may proceed and have these other two short witnesses at some other time?

MR. EVERS: I have no objection at all.

Your Honor, reference was made earlier about the rule which would seem to require the Prosecutor to call [fol. 102] the juvenile as a witness. I don't know how to plan to proceed from here on in.

MR. JOELSON: Well, I had not planned to examine the witness. I had planned to cross-examine. However, if the feeling is that I should conduct the examination I would be pleased to do so.

THE COURT: The rule, 6:9-1, where the offender is charged with the charge of the death of a person, the Prosecutor shall be notified and he shall conduct the examination and cross-examination of the offender and witnesses and the offender shall have the right to counsel, and the offender shall have the right to have counsel represent him and take part in the examination. Suppose you start by examining the offender.

I call counsel's attention to the fact that it says the Prosecutor shall conduct the examination and cross-examination of the offender.

WILLIAM MONKS, sworn.

DIRECT EXAMINATION

BY MR. JOELSON:

* * * *

[fol. 103] Q. William, do you remember where you were on the night of November 12th, 1956?

A. Yes, I was at the corner store on the corner of Twenty-second and Fifteenth Avenue.

Q. What time did you leave your house on November 12th, 1956?

A. About seven o'clock.

Q. And how did you leave your house?

A Walked.

Q Did you go through the door; front door, back door?

A Back door.

Q And where did you walk to?

A Twenty-second Street and Fifteenth Avenue.

Q Did you see anybody in the store?

A Yes.

Q Who did you see?

A The owner and some boys were around there.

Q Do you know the owner's name?

A Just his first name.

Q Do you know these boys' names?

(fol. 104) A No, I couldn't remember them.

Q Had you ever seen them before?

A Yes.

Q Had you been in that store before?

A Yes.

Q Did you tell your lawyers about these people?

A Yes, sir.

Q Now, I show you a statement which is S-6 in evidence, and ask you if that is your signature.

A Yes, sir.

Q Now, do you know what this S-6 is?

A Yes, sir.

Q What is it?

A A confession.

Q And did you make this confession?

A I didn't type it.

Q But did you give the answers that are in this confession when asked questions by Mr. DeSimone?

A Yes.

Q Are they true answers?

A No.

Q Why did you give them if they are not true?

A I was nervous at the time.

Q Now, I direct your attention to page five of this statement, "When you struck what happened", and after the word "struck", there is a little caret and then the word "her" in handwriting. Did you put that word and (fol. 105) that caret in there?

A Yes, sir.

Q You read this over before you signed it, did you not?

A Yes, sir.

Q And you made this correction?

A Yes, sir.

Q Did anybody tell you to make the correction, or did you make it yourself?

A They told me to make the correction.

Q They told you to make any corrections that you might want to make, but did anybody tell you to put that word "her" in here?

A No.

Q Now, I call your attention to page nine of the statement, on the very last line in answer to a question, the typewriting part says, "Usually when I go out," and after that is written "at night". Is that in your handwriting?

A Yes, sir.

Q Did anybody tell you to put the words "at night" in there?

A I don't remember that.

Q Now, I show you S-5 in evidence, and I ask you if it is signed with your signature.

A Yes.

Q Do you remember signing it?

A Yes.

Q Are the answers given by you in S-5 the truth?

A No, sir.

Q Now, I again ask you why you signed this statement if the facts are not true?

[fol. 106] A Because I was asking too many questions. I was asking questions. I was getting nervous. I was getting mixed up and I was tired, and so I signed it.

Q Are all the handwriting changes on page three of this statement in your handwriting?

A. Yes.

Q And why did you write the word "did" instead of the word "do" on page three in these two places?

THE COURT: Let him read it.

THE WITNESS: It was a mistake.

Q The word "do" was a mistake?

A Yes.

THE COURT: Tell me how it was a mistake.

THE WITNESS: It said, "Where do you run?" It is supposed to be, "Where did you run?"

Q And when you read this over, you caught this mistake. Is that right?

A Yes.

Q Now, on page eight there is a question that says in typewriting, "You don't whether she had a hat on?" You put the word "know" in there, didn't you?

A Yes.

Q Why did you put that word in there?

A That is a mistake.

Q You caught that mistake, didn't you?

A Yes.

[fol. 107] Q Now, going back to S-6, I call your attention to the question on the bottom of page six, "Will you describe the purse that you took from Giovanna Giambra?"

And your answer, "It was a black purse."

And I further call your attention to your answers indicating that the purse had handles and a big gold emblem. What made you give these answers?

A When I was being questioned, Sergeant DeSimone would say it was a black purse, wasn't it, and I would say yes, and he would say it had handles, and I would say yes and so forth.

Q When was this? When you were being questioned?

A Just before I signed it.

Q Now, this statement also states that after this girl was assaulted by you—

THE COURT: Is this Weiss or Giambra?

MR. JOELSON: Giambra, S-6.

That you ran down 14th Avenue toward 33rd Street, but you saw people so you turned around and started running towards the park. Why did you say that? Was that true?

THE WITNESS: I read that in the papers, that there were some people in the cars down there and in front of the building.

Q Detective DeSimone didn't tell you about that, did [fol. 108] he?

A I don't remember.

Q Now, in the statement you said that you hit the Giambra girl two times. Is that right?

A Yes.

Q Why did you say that?

A Sergeant DeSimone says to me, "You hit her once, right, Willie?" And he says, "She didn't go down and you hit her again, right, Willie?"

And I says, "Yes."

Q When did he say this?

A Before the confession was made.

Q How long before the confession was made did he say that to you?

A About an hour.

Q As a matter of fact, when Mr. Arthur showed you a number of keys, and particularly one key which is marked S-19 in evidence, and which I show you, do you remember sending for Mr. DeSimone at that point?

A No.

Q You don't remember sending for Mr. DeSimone?

A Yes.

MR. RUBENSTEIN: I object. You said first did you send for Mr. DeSimone at that point and now you are changing the question.

Q When did you say at any time that you wanted to see Mr. DeSimone alone?

[fol. 109] A It was in the lie detector room.

Q Now, why did you want to see Mr. DeSimone?

A I couldn't take no more questioning.

Q Why did you ask to see Mr. DeSimone?

A He was asking most of the questions, doing most of the interrogation.

Q And when Mr. DeSimone came after you sent for him, what did you say to him?

A I told him I did it.

Q And then what did he say?

A I think he said tell me how you did it.

Q And what did you do?

A I guess I told him how I did it.

Q Now, that was on February 26th that you told this to Mr. DeSimone, right?

A Yes, sir.

Q And you signed this statement late at night or early in the morning on February 27th, 1957. Is that right?

A That's right.

Q Now, the next day you were taken around in the presence of Mr. Jarmolowicz and you showed investigators where you hit the Giambra woman, isn't that so?

A Yes, sir.

Q Why didn't you, if you didn't do it, why at that time didn't you say to somebody that you didn't do it?

A What?

[fol. 110] Q Why didn't you tell somebody you didn't do it the next day, you had not done it?

A I already told them. I already signed a confession.

Q Well, the next day Mr. Jarmolowicz was along, was he not, when you went around showing the investigators?

A What could he do. I signed a confession.

Q I am not asking you that. I am asking you if the next day you told anybody that your confession was false? Do you remember drawing a sketch on March 1 for Detective DeSimone as to the type of instrument that you had said you hit the Giambra woman with?

A Yes.

Q You did draw this sketch, didn't you?

A Yes.

Q Why did you do that on March 1, if you didn't hit the woman with any instrument?

A Just made it up.

Q Did anybody threaten you on March 1, in any way?

A March 1st?

Q The day you drew this sketch of the instrument for Detective DeSimone.

A No.

Q Do you remember your mother and your sister visiting you on February 28th?

A Yes.

Q Here at the Children's Shelter?

A Yes.

Q Do you remember if your mother asked you wheth- [fol. 111] er you were guilty of this charge?

A Yes.

Q And what did you do?

A I shook my head.

Q Shook it in the affirmative?

A Nodded.

Q Why did you do that if you weren't guilty?

A Well, what could she do. I already signed the confession.

Q Now, in S-6, the statement, is that from you that you had eaten three times that day? Had you eaten three times that day?

A Yes.

Q And you were questioned whether you were threatened or mistreated by anyone during the entire period of your questioning and your answer was, "No". Is that the truth?

A. I was shouted at.

Q Who shouted at you?

A Ventimiglia, or whatever his name is.

Q Well, when you testified here yesterday, you said that you never cried throughout the entire interrogation.

MR. RUBENSTEIN: I object. That is untrue.

MR. JOELSON: Wait a minute. I am not finished. Except when you saw Stopford and Ogg, is that right?

THE WITNESS: Yes, sir.

Q Why did you cry when you saw Stopford and Ogg?

A Because they was supposed to be such good friends [fol. 112] of mine, and they come in there and they tell them that story. I don't know nothing about that.

Q When you first saw them, did you know whether or not they told any story?

A Saw them where?

Q Stopford and Ogg.

A In the police station?

Q In the Courthouse.

A When I first saw them, no.

Q So then how did you know they still weren't good friends of yours?

A They are making up a lie, making me get in trouble.

Q At the time you first saw them, did you know they had made up a lie?

A No.

Q And yet you just saw them and started crying?

* * * *

[fol. 113] THE WITNESS: They told me I was supposed to have hit this lady, and I didn't know anything about it, and they were supposed to be good friends of mine.

Q Didn't you testify before that when you first saw them you didn't know about them saying that you hit any lady?

A That's right, and then they told me.

Q Now, do you know Richard Tallon?

A Yes.

Q Did you ever have any fights with him?

A No.

Q Were you here today when he testified that you told him in the Children's Shelter—

A Yes.

Q —that you had hit the Giambra woman?

* * * *

THE WITNESS: Yes.

Q Now, do you know any motive he might have against you for telling this story if it wasn't true?

[fol. 114] A Before I signed this here confession, I told them I didn't do it, and after I signed it, I told them I did it.

Q Why did you tell them you did it if you didn't do it?

A I told everybody else I did it.

Q And did you tell him that you hit her once and then she put up her hand and you hit her a second time?

A I don't remember that.

Q I show you S-17 in evidence in which you are pointing to a tree. Do you know what this picture depicts? Do you know what this picture is?

A Yes.

Q What is it?

A East Side Park.

Q What are you pointing to in this picture?

A A low branch.

Q And why are you pointing to this low branch?

A I made that up and I said I fell there.

Q Did anybody tell you to say you fell there?

A No, sir.

Q Why did you make it up?

A I made it up.

Q Now, on March 2, did you tell anyone about throwing a weapon in the vicinity of the soldier's—under a tree shaped like an umbrella?

A March 2nd?

Q Yes.

A I don't remember.

Q Do you remember telling anybody at any time that [fol. 115] you threw a weapon in East Side Park under a tree shaped like an umbrella?

A Yes.

Q Who did you tell that to?

A I think it was Sergeant DeSimone.

Q And he didn't tell you to say that, did he?

A No.

Q Why did you say it?

A I made it up. I don't know how it was done. I just made this up.

Q I call your attention to S-5 in evidence, referring to Naomi Weiss, and the assault upon her.

Now, in this statement you said that you went to a bathroom in an apartment house. Have you ever been in this bathroom in an apartment house?

A Yes.

Q Who were you there with?

A Robert Stopford.

Q Now, in this statement on page four, you describe a weapon that you hit Naomi Weiss with, and you say that it had holes in it and it was shaped like a cigarette pack. Who told you to say that?

A I made that up.

Q Now, you also said that Naomi Weiss was carrying a package that night?

A Yes.

Q Why did you say that?

A One of the detectives told me that she had it.

Q Who told you that?

A I think it was Sergeant Joe Meola.

[fol. 116] Q And did anybody tell you any other contents of the purse of Naomi Weiss?

A One of the detectives did.

Q Which detective was that?

A I don't know which one.

Q Now, when Detective Ventimiglia questioned you about the description of the purse in the Weiss assault, why did you say to him, "You already have the purse, what are you questioning me, questions about it for?"

A I don't remember that.

Q Well, I show you S-4 in evidence and ask you if you have ever seen this purse before.

A I am not sure.

Q You are not sure?

A No.

Q Did Mr. Arther ever show it to you?

A He may have showed it to me. He showed me four pocketbooks. I don't know.

Q And do you deny that you said to Detective Ventimiglia when he asked you to describe the purse in the Weiss assault that he already had the purse?

A Not deny it. I just don't remember.

Q Now, in between the time you made the first statement, S-5, and S-6, were you given anything to drink or to eat?

A In between the statements?

[fol. 117] Q Yes.

A I don't remember, sir.

Q Do you remember getting a glass of milk?

A No.

Q Now, isn't it a fact that for one hour before the time you gave this statement in the Weiss case, S-5 in evidence, that nobody questioned you at all?

A It may have been.

Q Now, did you tell your lawyers the names of the boys who were in the store with you on November 12th, 1956?

A Well, I don't remember exactly who was in the store, but I gave him some names of boys that are usually there.

Q What names did you give him?

A Frankie Kypoff, Bobbie McGee and that's all I remember.

Q Have you discussed this case at all with your brother in Bordentown?

A Yes.

Q Has he advised you as to your testimony?

A No, we didn't never hardly talk about it, you know.

MR. JOELSON: That's all I have at the present time. This completes my examination, Your Honor, but I will have more questions after his own counsel question him.

CROSS-EXAMINATION

BY MR. RUBENSTEIN:

Q From the time you were picked up on the 17th of [fol. 118] February, Billy, until you went down to Bordentown, where were you kept?

A The first night I was kept at the police station, and I believe the rest of the time I was kept here.

THE COURT: When did he go to Bordentown?

Q About when did you go to Bordentown?

A The 20th.

Q But you didn't see your brother from the time you had been picked up until the time you went to Bordentown, did you?

A No.

Q Before you had gone to Bordentown you repudiated the confession, didn't you?

A Yes.

• • • •

[fol. 121] Q Billy, did you hit Naomi Weiss?

A No.

Q Did you grab a pocketbook from Naomi Weiss?

A No.

Q Did you hit Giovanna Giambra?

A No.

Q Did you have anything to do with the assault upon her or the death of Giovanna Giambra?

A No, I didn't know nothing about it.

Q Did you have anything to do with the assault upon Naomi Weiss?

A No, sir.

Q At the time you told Detective DeSimone that you [fol. 122] had something to do with the Giambra matter, were you in any way afraid of him?

A I don't think I remember that, sir. I don't remember that.

You mean that heart to heart talk like?

Q Well, did you have a heart to heart talk with Detective DeSimone?

A Yes.

Q And about when was that?

A Around about five o'clock.

Q Is that the time you told Detective DeSimone that you had done the Giambra thing?

A No, wait a minute. I will change that. It was about four o'clock.

Q Is that the time you told Detective DeSimone that you had done the Giambra thing?

A No, sir.

Q When did you first tell Detective DeSimone you had done the Giambra thing?

A About five o'clock.

Q And where did you tell him?

A I think it's the anteroom.

Q What had you been doing in the anteroom just before that?

A Taking a lie detector test.

Q At the time you told Detective DeSimone that, were you afraid of anything?

A I was nervous.

Q Why were you nervous?

A Mr. Arther was asking me a lot of questions, and [fol. 123] I was getting all mixed up.

Q Is that the only thing you were nervous about?

A And being suspicion of it, being suspicious of it.

Q Is that your leather jacket, Billy?

A Yes.

Q Do you see many boys, many men wearing leather jackets like that?

A Yes.

Q Are they quite popular as far as you know?

A Yes.

Q Billy, do you know where you were on February 24, 1956, the night of the Weiss assault?

A No, I couldn't remember that.

Q Have you been in East Side Park quite often?

A Yes, sir.

Q You are pretty familiar with East Side Park?

A Yes.

• • • •

[fol. 124] [December 10, 1957]

• • • •

[fol. 129] WILLIAM MONKS, having been previously sworn according to law, is recalled and testified as follows:

CROSS-EXAMINATION

BY MR. RUBENSTEIN:

Q Billy, after the conclusion of the taking of the statement which was S-6 in evidence which would be the statement concerning the Giambra matter, did you ask to see a picture of Vonnie Giambra, a picture that they had?

A Yes.

Q Did you say you wanted to see how hard you hit her?

A No.

Q What did you say?

A I just asked him if I may see the picture.

* * *

[fol. 130] CROSS-EXAMINATION

BY MR. JOELSON:

Q Now, William, after your confession on the Weiss and Giambra matters on February 26th, 1957, when was the first time after that that you recanted your confession, that you went back on your confession?

A When I got a visit from my lawyer.

Q When you got a visit from your lawyer?

A Yes.

Q When was that?

A I don't know.

Q Wasn't it around the middle of March, around March 20th?

A About that.

Q Now—

MR. EVERS: If your Honor please, I think the March 20th date was the date that the matter was first set down for hearing by Judge Schantsch and there was a formal statement made on the record on that date that the boy had recanted his confession, but I don't know whether Mr. Joelson is trying to derive whether or not the recanting actually took place that day or previously. I think the date is—

THE COURT: I think Mr. Joelson can conduct the examination as to that element of time the way he wants to. I think your statement is probably helpful at the [fol. 131] moment.

Q At any rate, William, the first time you recanted was when the Court assigned counsel to you and you spoke to your counsel, is that right?

A Yes.

Q Now, why did you wait until that time? Why didn't you tell your mother and sister on February 28th?

THE COURT: One question at a time. You have asked a question and it wasn't answered.

Q Why did you wait such a long time?

A I don't know.

Q You will have to speak up. I don't know what you said.

A I don't remember.

• • • •

Q Now, on the night of November 12 prior to the time you went out around seven o'clock, did your father lock you in your room?

[fol. 132] A I don't remember that.

Q Well, your room was on what floor of your house?

A Second floor.

Q You don't remember whether or not your father locked you in your room on November 12, 1965, is that right?

A Yes.

Q But you do remember that you were in the confectionery store on the corner of East 22nd Street and 15th Avenue on that night, don't you?

A Yes.

Q How often did your father lock you in your room?

A When I did something wrong.

Q How often were you in the candy store on East 22nd Street and 15th Avenue?

A Very often.

Q And you don't remember whether or not your father locked you in your room that evening, is that right?

A I can't remember.

Q But you do surely remember that you were in the candy store on East 22nd Street and 15th Avenue?

A Yes.

Q Now, immediately prior to February 17, 1957, that is the time you were first placed in custody, where were you living?

A 421 Ellison Street.

Q That is not your parents' home, is it?

A No.

[fol. 133] Q Whose home is that?

A Mr. and Mrs. Rammage.

Q How long had you lived there?

• • • •

THE WITNESS: About a month and a half.

Q And for the two or three weeks prior to the time you went to live with Mr. and Mrs. Rammage on Ellison Street, where did you live?

A Harry Ogg's cellar.

Q And during that two or three week period did you ever sleep in parked cars during the night?

A Yes.

Q How many times would you sleep in parked cars during the night?

* * * *

THE WITNESS: Two nights.

Q During that time that you were either sleeping in Ogg's cellar or in parked cars, what time did you usually go to sleep?

* * * *

[fol. 134] THE WITNESS: Around ten o'clock, between nine and ten o'clock.

Q The night you slept in parked cars you went to sleep at nine o'clock or ten o'clock?

A Nine or ten.

* * * *

Q When you slept in the parked cars what time did you go to sleep?

A What time did I fall asleep?

Q What time did you go to sleep? What time did you go to the car for the purpose of sleeping?

A About nine, nine-thirty.

Q And did you sleep the whole night through in the parked car?

A No.

Q What time would you leave the car?

A I would never leave it. I just didn't go to sleep. It was cold. It was in the wintertime.

Q And when you slept in Ogg's cellar what did you sleep on?

A A sleeping bag. It is on—

[fol. 135] Q Was it on the floor?

A Yeah, on a sleeping bag.

* * * *

Q At the time you were either living in Ogg's cellar or sleeping in parked cars, where did you eat your meals?

A At Harry Ogg's house.

Q And at the time you were living with the Rammages where did you eat your meals?

A At that house.

* * * *

[fol. 136] Q Did you eat three meals a day in Ogg's house from the time you left your home until the time you went to Rammages' home?

A Not all the time.

Q Where did you eat when you didn't eat in the Oggs' house?

A Stopford's house.

Q Did you ever skip meals?

A Yes.

Q Now, I am going to show you S-5, which is the statement involving the Weiss assault. Why did you say in this statement, William, that you hid behind a tree on the night of the Weiss assault?

A I don't know. I heard it from one of the detectives that someone was over there waiting for the lady.

Q Did anyone tell you that anybody hid behind a tree?

A Maybe not in them words but they meant that.

Q Now, why did you say you cut across the street from the tree to where Naomi Weiss was?

A The detective also told me that.

Q Which detective told you that?

A I don't remember them.

Q Now, what did they tell you?

A They told me that; that you was hiding behind this tree and that you cut diagonally across the road and you hit her.

* * * *

[fol. 137] Q Did they tell you that you were hiding behind a tree and that you cut across the street before you confessed to the Weiss assault?

A Yes.

Q Are you sure of that?

A Yes.

Q But you don't remember which detective?

A No.

Q Did you read anything in the newspapers about the Weiss assault?

A No.

Q How did you know the height of Naomi Weiss?

A I just guessed at it.

Q Nobody told you her height, did they?

A I don't think so.

Q How did you know the way she was dressed?

A They told me that too.

Q Now, do you recall when Detective Ventimiglia asked you to describe the Weiss purse, do you recall saying to him that you already have the Weiss purse?

A I don't remember that.

Q Well, do you remember conversations with Detective Ventimiglia about a purse?

A No.

Q He never asked you to identify a purse or to [fol. 138] describe a purse?

A The lie detector man, he did.

Q How many purses did he show you?

A I think there was four.

Q And do you deny that you told Detective Ventimiglia when he asked you to describe the purse that the police already had the purse?

A I don't remember that.

Q Now, I want to go to the statement on the Giambra matter. You described Vonnie Giambra's height in this statement. How did you know the height of Vonnie Giambra?

A I probably guessed as it.

Q You guessed that too?

A Probably.

Q Now, you also said in this statement that after you hit Vonnie Giambra you ran and you ran down towards the St. Theresa's School but that you saw some people in front of the school and therefore you retraced your steps back. How do you know there were people around the school?

A I read that in the papers.

Q Do you recall which paper?

A No.

Q Well, I would like you to examine the papers that are in evidence on the Giambra matter and show me where this is contained in any of these papers.

A Do you want me to read it?

Q Yes, read it carefully.

[fol. 139] MR. RUBENSTEIN: For the purpose of the record—

THE COURT: Can we separate the Giambra matter from the Weiss matter to save time?

MR. RUBENSTEIN: All these papers deal with the Giambra matter. It also appears in the record that he read it in the Daily News and Newark Evening News. None of them are here because I did not obtain them. These are the only articles which I had available.

THE COURT: Let the record note that the witness has been examining the statements for about twenty minutes.

(There was a short recess taken.)

Q Now, William, you have read these papers that have been marked into evidence. Have you been able to find any reference in these papers to any people being gathered in front of St. Theresa's Church at the time you stated in your statement?

A No.

Q Now, William, you say you read in detail about the facts in the Giambra case in the newspapers, is that right?

A Yes.

Q Why did you read the papers about this case in such detail?

A It was such a big thing, you know.

Q Well, do you remember a Bucanus case in Passaic that was in the local papers?

A No.

[fol. 140] Q You never heard of that case?

A I never heard of that name before.

Q Do you remember a case where a person by the name of Force was killed?

A No.

* * * *

[fol. 141] Q Do you remember reading about a Zak case in the City of Paterson?

* * * *

Q What was the answer?

A No.

Q Now, you stated when you testified last week that you had a heart to heart talk with Detective DeSimone on [fol. 142] February 26th, is that right?

A Yes.

Q And do you remember about what time that was?

A Four, maybe four-thirty.

Q Now, after you had that heart to heart talk did you sit alone for any length of time without anybody questioning you?

A Yes, sir.

Q For about how long?

A Not too long.

Q Well, would it be more than half a hour?

A No.

Q Would it be about a half an hour?

A No, about fifteen minutes maybe at the most.

Q And isn't it so that you asked to talk to Detective DeSimone at a time when you were shown a certain key by Mr. Arther, the lie detector operator?

A Not at that time.

Q When did you ask to see Mr. DeSimone?

A I asked in the test, I think it was.

Q After the test?

A I think so.

Q You don't remember anything about a key during that test?

A Could have been. I don't know.

Q Now, at any rate you did confess to Mr. DeSimone alone, is that right?

A Yes.

Q Now, after you confessed to Mr. DeSimone alone, [fol. 143] you then had a sandwich and a drink and pie, is that right?

A Yes.

Q And after that didn't you repeat your confession not only to Detective DeSimone but to Ventimiglia and in the presence of Mr. Jarmolowicz orally?

A Yes.

Q And isn't it a fact that from that time, from the time that you completed your oral statement to these three men until the time you were questioned in the presence of Mr. Weberman, who was the man who took the statement down on a typewriter, that about an hour and a half elapsed in which you ate and were not questioned in any way? You did not eat, I am sorry. In which you were questioned in any way.

A From what time to what time?

Q From the time you orally repeated your confession in the presence of Mr. Ventimiglia and Mr. Jarmolowicz until the time that the statement was taken down on a typewriter, didn't a period of an hour or more elapse in which you were not questioned in any way?

A Could have been.

Q What is that?

A Could have been.

Q Now, William, I am going to show you pages. Well, I will show you page seven of the transcript of your [fol. 144] testimony here last week in which I asked you why you said you hit the Giambra girl two times and your answer was that Sergeant DeSimone said to you you hit her once, right, Willie, and he says she didn't go down and you hit her again, right, Willie.

MR. RUBENSTEIN: Will you finish the answer, please.

Q And I says, "Yes."

Now, when I asked you when he said this you said before the confession was made. Now, will you tell us exactly when this conversation between you and Detective DeSimone took place?

A I don't know. It could have beeen when I was telling him orally.

Q After your heart to heart talk?

A Yeah.

Q Well, the first thing that you said to him when you confessed orally was what as closely as you can remember?

A I don't remember.

Q Well, did you say I did it, I want to confess, or just what was your opening remark to him when he came in at your request?

A I don't know. I don't remember nothing about that.

Q Why did you send for him?

A I just couldn't take no more questioning.

Q What did you say to him when he first came into [fol. 145] the room?

A I don't remember that.

Q Now, in your statement as to the Giambra matter you said that you used a pipe and that you got a pipe where men were working some place in 15th Avenue. Did anybody tell you to say that?

A No.

Q Why did you say it?

A I just made it up.

Q And did you ever pick up a pipe on 15th Avenue as you said?

A No.

Q And why did you say that after the Weiss assault that you buried this pipe on 31st Street and Park Avenue? Did anybody tell you to say that?

A No.

Q Did you just make that up?

A Yes.

Q Did you ever bury a pipe?

A No.

Q Now, do you remember the morning of February 27th when you went around with the police and reconstructed these assaults which you had confessed to?

A Yes, sir.

Q Do you remember saying to DeSimone on that day that you were glad you got it off your chest?

A No.

Q Now, didn't you tell DeSimone maybe four or five days after your confession that your statement was un- [fol. 146] true as to your having thrown the pipe in the river, that you really had dropped it in East Side Park on the night of the Giambra assault?

A Yes.

Q Why did you tell him that?

A Where did I say I hid the pipe first?

Q Well, you first said that you threw the pipe in the river, isn't that so?

A Yes.

Q And that was on February 26th that you said that, right?

A Yes.

Q Now, four or five days later why did you tell Mr. DeSimone that you really didn't throw the pipe in the river but that you had dropped it in East Side Park on the night of November 12, 1956?

A I think they were looking for the pipe and they couldn't find it so I made up another story.

Q Didn't you tell him that you went back to the park a day or two after November 12, 1956, because you remembered that the police were looking for a weapon and that you took the pipe that you had hid under a tree and threw it in a garbage can?

A Yeah.

Q Now, was that statement the truth?

A No.

* * * *

[fol. 147] Q Do you remember a conversation with Detective DeSimone and Edmond around March 2nd, 1957, after the skin divers had gone down in the Passaic River looking for the Giambra purse?

A Yes.

Q And what did they say to you?

A They says they didn't find the pipe or the pocketbook?

Q And what did you say about the pocketbook?

A I think I says, "You should find it."

Q Why did you tell them that?

A I just made it up.

Q Now, on March 1, 1957, do you remember having a conversation with DeSimone about the type of instrument that you said you had hit the Weiss and the Giambra women with?

A Yes.

Q Do you remember him showing you various types of instruments?

A Yeah.

Q Do you remember him showing you this instrument that I have in my hand?

A Yes.

MR. JOELSON: I would like to mark this merely for [fol. 148] identification.

THE COURT: Let it be marked.

(The above mentioned instrument was received and marked State's Exhibit S-29 for identification.)

Q Now, did Detective DeSimone show you this bar which is marked S-29 for identification and ask you if that was the weapon you used?

A Yes.

Q And what did you say?

A No.

Q And did he then ask you to describe the weapon that you used?

A Yes.

Q How did you describe it?

A I says it was about two feet long and it was shaped like a cigarette pack and it had all oval shaped holes in it.

Q Now, did you ever see a weapon such as you have just described?

A Yes.

Q Where did you see such a weapon?

A Some men were working on this here road on 15th Avenue and 27th Street.

Q When were they working on this?

A About the early part of February, 1957.

Q And did you take such an instrument at that time?

A No.

Q Did you ever pick it up and hold it in your hand?
A Yes.
Q Why?
A Just looking at it.

* * * *

[fol. 149] Q Let's go to your conversation with Richard Tallon. Wasn't your conversation with Richard Tallon here in the Children's Shelter prior to the time that you made a confession in this case?

* * * *

Q Tell us about the first conversation that you had with Richard Tallon concerning either the Giambra or the Weiss case.
A He asked me if I hit her and I says, "Yes."
Q When was this?
A After I signed the confession.
Q Are you sure it wasn't after your first lie detector test but before you signed the confession?
A I don't know.
Q Could it have been before you signed the confession?
A No.
Q Well, did you have two conversations with Richard Tallon?
A Yes.
Q What was the second one?
[fol. 150] A After I recanted the confession he asked me and I says, "No, I didn't do it."
Q Are you sure he was still here when you recanted the confession?
A I think so.

* * * *

Q Now, you testified at the last hearing that there were occasions when you went into a rooming house on 31st Street and 15th Avenue. When you went into this house how did you get into the house?
A By the rear door.
Q Did you have a key to the rear door?
A No, it was always open.

Q And now I want you to go back in your mind to your very first conference with DeSimone and Ventimiglia on February 18, 1957, that's the very first time they spoke to you here in the Children's Shelter. Do you remember that day?

A Yes.

Q Now, do you remember them asking you if you knew about any purse snatchings on various streets?

A Might have.

Q And didn't they go street by street? They started [fol. 151] with 25th Street, 26th Street, 27th Street and so on?

A I think so.

Q And when they asked you if you knew anything about a purse snatching on 31st Street, what did you say?

A I don't remember that.

Q Didn't you say I didn't hit that woman?

A I don't think so.

Q Don't you remember saying that and they asking you which woman and you said the woman that was hit about a year ago?

A It might have been. I don't remember that.

Q And don't you remember saying to them it was snowing that night?

A No.

Q You don't remember that at all?

A There was some questioning. I don't remember.

Q This was the very first time you ever saw Detective DeSimone, wasn't it?

A Yes, I guess so.

Q And he had not questioned you very much that day had he?

A I guess not.

Q All right. Now, I want you to search your memory and tell the Judge just what you said as close as you can remember when East 31st Street was mentioned.

A I don't remember that.

Q You don't remember that?

A No.

Q Well, on February 18, 1957, did you know anything [fol. 152] about the Weiss assault at all?

A No.

Q You didn't know anything about it?

A Except the first night they were asking me questions about that.

Q What first night?

A The first night I was picked up.

Q You never read about it in the newspapers?

A No.

Q You never discussed it with Ogg or Stopford?

A No.

Q You never looked at a newspaper in the candy store and discussed that Weiss affair with Ogg and Stopford?

A No.

Q Now, I want you to recall that same conversation with DeSimone and Ventimiglia on February 18, 1957, when they mentioned Wall Avenue. What did you say when they mentioned that?

A I don't remember that.

Q You don't remember anything about that at all?

A No.

Q You don't remember saying, "I didn't hit that woman"?

A No.

Q And when they asked you which woman you don't remember saying, "The woman that was hit on November 12, 1956"?

A No.

[fol. 153] Q Now, at your testimony here last week you stated on direct examination that you were with some boys in that candy store on East 22nd Street and 15th Avenue and on direct examination on page three you said you couldn't remember their names and then on page sixteen you said in answer to my question did you tell your lawyer the names of the boys who were in the store with you on November 12, 1956, and your answer, "ANSWER: Well, I don't remember exactly who was in the store but I gave him some names of boys that are usually there."

And then the question, "QUESTION: What names did you give him?"

And your answer, "ANSWER: Frankie Kypoff, Bobbie McGee and that's all I remember."

Isn't it a fact that previously you gave as alibi witnesses to your lawyer names of Frank Dovidio and—

THE COURT: Can't you reframe this question?

MR. JOELSON: Sir, I want to ask him—

THE COURT: How do you know he gave these names to his lawyer?

MR. RUBENSTEIN: I think for the purpose of the record I might say that the names were given in the Prosecutor's Office and in the presence of the Prosecutor and myself. There is no question of privacy involved, sir.

Q Didn't you say on March 20, 1957, in the presence [fol. 154] of Mr. DeSimone and your lawyers that you were in the store on 15th Avenue and East 22nd Street on November 12, 1956, with Frank Dovidio, Warner Ottlinghouse and Billy Goodwin?

A Yes.

Q And why did you say last week that you gave your lawyer the names of Frankie Kypoff and Bobbie McGee?

A I don't remember who was there, but those boys that I named are usually there.

Q Well, I asked you what names you gave as boys who were in that store on November 12, 1956, and you said Frankie Kypoff and Bobbie McGee and that's all I remember. Now, do you remember at this time the names of the boys who were in that store on November 12th, 1956?

A I don't remember for sure who was in the store but them boys are usually in the store at nighttime.

Q Now, I want you to trace your steps on the night of November 12, 1956, from the time you left the house around seven o'clock until the time you went home, and I want to begin by asking you if it isn't true that you were locked in your room and that you went out of a window of your room on that night?

A What was that again?

Q On November 12, 1956, when you left your house around seven p.m., didn't you leave by way of a window in your room?

A No.

[fol. 155] Q You didn't climb out of a window and jump to a porch roof and then climb down and get into the street?

A November 12th?

Q Yes.

A I wasn't sleeping in that room.

Q Well, were you locked in any room on that night?

A I don't think so. You mean the door locked?

Q Yes.

A No. I was maybe sent to my room but I wasn't locked in there.

Q And you just walked out of the back door, not out of a window?

A No, not out of a window.

Q Now, what happened when you left the house? Where did you go?

A To the corner of 31st Street and 15th Avenue and then up to 26th Street.

Q Go ahead. And then you went up to 22nd Street to the store?

A Yes.

Q Now, how long does it take, or did it take you that night to walk from your house to that candy store?

A About seven minutes.

Q What time did you leave your house?

A About seven.

Q So you got there about seven minutes after seven in the candy store?

A Yes.

Q How long were you there?

A Until about nine.

[fol. 156] Q You were in that same candy store for about two hours?

A Yes.

Q And yet you don't remember anybody who was in there with you?

A No. The boys, they come and go, you know. I don't know exactly who was in there.

Q Did you ever stay in these two hours before on another night?

A Yes.

Q What did you do there for two hours?

A Talked, watched the boys play the pinball machine.

Q What boys did you talk to?

A Anybody that was there, any of my boy friends that were there.

* * * *

Q Who did you watch play the pinball machine?

A Billy Goodwin, my brother, Warner Ottlinghouse.

Q Your brothers were there?

A Brothers? I don't know. Maybe my brother was. Bobbie wasn't there that night, no, but that's who I usually watched.

[fol. 157] Q I am talking about this night.

A Oh, I don't know.

Q You were there for two hours and you don't know who you saw play a pinball machine or who you talked to, is that correct?

A It could have been anyone of the boys I mentioned. I don't remember.

Q When did you next go back to that candy store after November 12th?

A The next day, I think it was.

Q What time the next day?

A In the morning. About eight o'clock, 8:30.

Q Weren't you in school?

A No, I didn't go to school until about nine o'clock.

Q Well, you went to School No. 22, didn't you, at that time?

A Yes.

Q How could you have gone to that candy store at 8:30 and been in School 22 at nine o'clock?

A The bus comes about twenty-five minutes to nine because I usually have a bite.

Q Just a minute. How did you go to school that day, by bus or by bike on November 13th?

A I rode my bike to that store, stayed there for a few minutes and then I go and ride the bike to Chuck Ramsey's house. I park it there and then I walk to Broadway and some other street where the library is [fol. 158] there and I catch the bus.

Q Did you do it on November 13th?

A I do it every day.

Q Did you do it on November 13th?

A Yes.

Q Are you sure of that?

A Pretty sure.

Q In other words, after the night of November 12th when you were in the candy store you went to school the next day, November 13, 1956?

A I think so.

* * * *

[fol. 160] REVEREND JAMES BOYSELL, sworn.

DIRECT EXAMINATION

BY MR. EVERS:

Q Reverend Boysell, would you state your occupation, please?

A Clergyman.

Q And of what church are you the rector or pastor?

A The East Side Presbyterian.

Q In Paterson?

A That's correct.

Q Do you know the juvenile, William Monks?

A I met him first here when he was detained in the —one of my trustees and the previous director here, I believe his name is Orr.

Q Can you tell us approximately when that was, Reverend?

A That was on the day just preceding the lie detector test. I believe he was taken down as soon as our conference was over.

Q And do you recall what day of the week that was?

A I do not.

* * * *

[fol. 161] Q Now, after this first meeting to which you have testified, did you have any subsequent meetings with the boy?

A Yes, I did, on two occasions. I am trying to recall now two cases. I believe I was here at the request of Judge Schamach trying to do the best I could to find out what the situation was.

Q Now, do you know whether either or both of those last two conversations that you had with him took place before or after he issued the statements in which he admitted implication in these two offenses?

A I am not positive. I believe one of them may have occurred before the statement and one after the statement.

Q Are you sure that at least one took place after the statement?

A After the statement, yes.

Q Would you relate to the Court the circumstances [fol. 162] under which you first came here to confer with the boy?

A At the request of Judge Schamach.

Q The first conference?

A That's right.

Q That's the one at which you were accompanied by one of the trustees of your church, is that right?

A That's right.

Q Now, during the course of these various conversations with the boy, did you discuss with him the Weiss matter?

A Only indirectly. I believe I was concerned with the pocketbook that he had stolen or taken from one of our parishioners. He told me where he had buried it. I went there with one of the deacons who was with me, a Mr. Reed. I was accompanied on my visits by either one or the other of these men, and we found what he buried in the way of the pocketbook.

Q When you refer to those incidents involving a pocketbook, you don't have reference to either the Weiss or the Giambra matters, do you?

A No, that was entirely another matter.

Q Did you at any time discuss with the boy, at any time during these various conferences you had with him discuss the Giambra matter with him?

A Yes, I did.

Q Now, did he at any time admit to you complicity in [fol. 163] either Weiss or Giambra?

A No, he did not.

Q Did you ever question him regarding his having admitted doing these two offenses?

MR. JOELSON: Unless we can fix a date I would have to object to this, Your Honor.

THE WITNESS: If you would permit me as a friend of the Court, I would rather just say my pastoral relations with this boy, although he is not a member of our church, one of his sisters is and through that interest and Judge Schamach's request I tried to be of some help to him. In our conversations there was no admission to the case now before you. I would hesitate to share any pastoral conferences, but there were none in this case that would suggest his having had more than a story to tell which he made more and more of.

Q Did you inquire of the boy as to why he had confessed to these two offenses?

A Yes, I did.

Q Will you tell his Honor the reasons that he advanced, or rather what he said?

A I asked Monks in a rather private conference if he wouldn't tell me whether this was true or not and he said it isn't, he didn't realize how much trouble he was getting into; it was a story and he had to make the story good. That's all I could ever get out of the boy.

MR. EVERS: Thank you, Reverend, that's all.

[fol. 164] CROSS-EXAMINATION

BY MR. JOELSON:

Q Reverend Boysell, I'd like, if possible, to fix dates for these conversations. You say the first conversation was before?

THE COURT: Let me suggest this: Did you see him altogether on three occasions, Reverend?

THE WITNESS: I believe that's correct. I would have to refer to notes which I have not had time to do since being called here. I saw him the first time in the presence of Mr. Orr and Mr. Swab in Mr. Orr's office. At that time on the day which I believe he was being called down, at that particular time for a lie detecting test. On two other occasions I think I saw him. I couldn't fix those dates without referring to my notes. Both of them were here. I have not seen this chap outside of this building.

* * * *

[fol. 165] Q And is it your testimony that Monks said to you that if he had known how serious the offense was that he would not have confessed?

A That's all I could get from this boy. I asked him repeatedly why he had confessed and he said well, I started with a story and I had to make it good. That's about all I can contribute to it.

* * * *

WILLIAM MONKS, having been previously sworn according to law, is recalled and testified as follows:

* * * *

[fol. 166] BY THE COURT:

* * * *

[fol. 167] Q Well, do you remember your father saying to you that around the middle of November the police had to be to the house, William.

Q Do you remember him saying that the patrolman had come and said where was William the night that the Giambra matter happened?

A Yes.

Q Do you remember that?

A Yes.

Q Do you remember your father saying to you I told them that you were supposed to be in your room but that [fol. 168] you had gone out?

A Yes.

Q Your father told you that?

A Yes.

Q Now, how many days after the Giambra affair was that, was that the next morning or the morning after or what?

Q Let's see what day of the week the 12th was on.

MR. JOELSON: Monday.

Q Monday is the 12th, Tuesday is the 13th, Wednesday is the 14th, Thursday is the 15th. I think the officer said he saw your father on the 15th. Is that your recollection of Officer Mulhall's testimony?

MR. JOELSON: That's right.

Q Was it that Thursday night then that you say you spoke to your father?

A Yes. I was picked up from the police. I was brought down to the police station, that was about four o'clock and I come home about six, maybe six-thirty.

Q And you went down to the police station then?

A No, from about four to about six-thirty I was down the police station.

Q Did your father go down with you?

A No.

Q Was your father home when you went home?

A Yes.

[fol. 169] Q Well, what did—what your father said was true, was it not, that he had told you to stay in your room and you had gone out?

A I think so.

Q On that Monday night?

A Yes.

* * * *

[fol. 171] Q Now, when you went down to the police station on this Thursday, do you remember who the police were that you talked to?

A No.

Q Were there any other boys down there at that time?

A No.

Q Do you remember the detective?

A No.

Q Where did you go? Right in the police station or in the Detective Bureau?

A On the second floor of the police station.

Q How long were you questioned then?

A About an hour.

Q Were you all alone? I mean there were no other boys there?

A No.

Q How many detectives or policemen?

A Maybe one or two.

Q Did you go to the Youth Guidance Bureau at all that day?

A No.

Q Do you know who they are, the Youth Guidance Bureau?

A City Hall Annex?

Q Yes.

A No, I don't think so, no.

* * * *

[fol. 174] Q Now, do you remember on the 13th of November that your father and mother were talking to you about your behavior?

A I don't remember exactly but it could have been.

Q Do you remember that you were on probation and they were discussing with you your conduct while you were on probation?

A Yes, sir.

Q Do you remember that they said to you that they didn't like to do it but they were going to talk to the probation officer about your conduct?

A Yes.

Q What did you say to them?

A Nothing.

Q This picture is S-26. Is that the one that you saw from Detective Ventimiglia?

A Yes.

Q You did ask to see that picture, didn't you?

A Yes.

Q You asked the detective? Had it been around the room while you were being questioned?

A This picture? That was right after I signed the statement.

* * * *

Q What I meant was why did you know that you [fol. 175] would be interested in seeing that picture? Had there been a great many pictures around the room?

A Somebody was showing that to somebody across the table and I asked to see it.

Q You knew when you asked to see it that it was the picture of the young lady, didn't you?

A Yes.

Q Now, you remember when your mother and sister came up here and Mr. Orr was here, you remember when they visited you that day?

A Yes.

Q And your mother said William, did you do this terrible thing, and did you shake your head yes?

A Yes.

Q Now, you remember Mr. Jarmolowicz, don't you?

A Yes.

Q Was he your probation officer?

A No.

Q Who was your probation officer?

A I forget his name. I had two of them.

Q William, you knew Mr. Jarmolowicz who is sittin here on my left?

A Yes.

Q And on the 18th of February when you were i the Shelter here, Mr. Jarmolowicz was here when Detec tive DeSimone and the other officers talked to you, wa he not?

A Yes.

[fol. 176] Q Did you know he was a probation officer

A Yes.

Q And you know these probation officers try to hel the probationers, do you not?

A Yes.

Q Did you know that Judge Schamach had assigne Mr. Jarmolowicz to stay with you?

A Yes.

Q How did you know that?

A I think Sergeant DeSimone told me, or else Jarmolowicz told me.

Q Jarmolowicz told you?

A Jarmolowicz.

Q Now, sometime after that Mr. Jarmolowic to you and said to you: "William: if you didn't don't admit it", didn't he?

A Yes.

Q Now, these lie detector tests on the 26th, h were they?

A Not very long.

Q Did they tire you?

A Yes.

Q What?

A Yes. It was mostly the questions he was me, not when the machine was running.

Q How long did he question you? Didn't he s were nine or ten incidents where the machine w on for a minute and a half or two minutes." Is what he said?

A Yes.

Q Would it?

A Yes.

Q Then would he question you for ten or fifte utes or how long?

[fol. 177] A Maybe ten or fifteen minutes.

Q And then he would stop and start again, is idea?

A. Yes.

Q And when these periods stopped, then you see Mr. Jarmolowicz, he would be out in the room

A Yes.

Q And he was present all the time?

A Yes.

Q This first statement starts, that is S-1 g 10:45 according to the report here, excuse me, I a ing at the wrong one. 10:30 is the first date that's on this and there was some delay in waiting f Weberman that night?

A Yes.

Q Considerable delay, an hour or an hour and or so?

A Maybe.

Q Were they trying to get the Stenographer?

A Yes.

Q Mr. Jarmolowicz was there, was he not?

A Yes.

Q Well, when you went down to the Detective Bureau on that Thursday, November 15, you then could recall what you had done on the night of November 12th, couldn't you?

A Yes.

Q And did you go out of the house through the back door?

A Yes.

[fol. 178] Q Did your father instruct you to stay in your room that night?

A Yes.

Q And what floor was your room on?

A The second floor.

Q And do you recall what time you went out?

A About seven.

Q Now, when you went out the back door, how did you go down to the store? Did you go down Park Avenue or down 15th Avenue?

A Over to 15th Avenue and 31st Street and then straight up.

Q Didn't you say when Mr. Jarmolowicz asked you a question before that you didn't recall whether you had gone out of the house?

(No answer given.)

Q Didn't you say that you didn't recall whether you had been locked in your room and gotten out that night?

A No, I didn't recall it.

Q You make a distinction between being locked in your room and just being ordered to your room, is that right?

A Yes.

Q Is that what you mean?

A Yes.

Q Well, take page five of the Giambra statement which is S-6. You wrote this change in there, you added that word "her"?

A Yes.

Q you read that statement over word for word, didn't you, William?

A Yes.

[fol. 179] Q And you put that word "her" in there?

A Yes.

Q You were alert then, weren't you? I mean, you were wide awake?

A I wasn't sleeping.

Q Take a look at the first page of that statement. Did they ask you that first question, what is your name? Was that question asked of you, William?

A Yes.

Q Was the next question, where do you live?

A What my age is.

Q They asked you how old you are?

A Yes.

Q That question was asked of you too, and then they asked you a question about what time you left, is that there?

A Yes.

Q Now, go back to the first page there. At that time there was an apartment being constructed on the southeast corner of Park Avenue and East 31st Street, wasn't there?

A Yes.

Q Had you ever buried anything down there in the sand?

A No.

Q Had you ever buried anything down there in the sand?

A No.

Q Now, your father and mother told you that they were going to go down to the Probation Office and report [fol. 180] you for your conduct, didn't they?

A Yes.

Q What did they say that they were going to report you for, William?

A Goofing off.

Q What?

A I wasn't behaving.

Q You were goofing off?
A Yes, I wasn't behaving.
Q What is goofing off?
A I wasn't behaving right.
Q In what way did your mother and father complain about you?
A It could have been school reports?
Q Pardon me?
A It could have been school reports?
Q Could be?
A School reports.
Q What else? What time did you get in on the 12th and what time did you get back home?
A Nine, quarter after nine.
Q Well, your father knew you had been out?
A I don't know.
Q Didn't he know you had been out on that Monday night?
A I was supposed to be in my room. I don't know if he knew I left or not.
Q He knew you had been out?
A I don't know.
[fol. 181] Q You told Officer Muhall on Thursday, he said, "I sent Billy to his room and he walked out."
A Yeah.
Q Did he know what time you got in that night, Monday night?
A I don't know.
Q Did your father know? Was he there when you came in?
A No.
Q Was he in bed?
A Either in bed or maybe down the cellar working or else looking at television.

• • • •

[fol. 197] MR. RUBENSTEIN: If your Honor please, for the purpose of the record we have no additional witnesses to call. I believe there had been testimony that the juvenile had originally—when we were called into the matter he gave us a list of names of boys who he thought might have been at the candy store on the night of November 12th. Three of the boys were interviewed by Detectice DeSimone and myself. The names of the boys were—

MR. JOELSON: Vincent Deovidio, Walter Ottlinghouse and Bill Goodwin.

MR. RUBENSTEIN: The three boys stated that they normally hung around that candy store and that Billy Monks also hung around but they could neither confirm or deny the fact that night since this took place months after and they couldn't remember night to night whether they had been there.

THE COURT: Nor could they have been there.

MR. RUBENSTEIN: Except that they normally and generally hung around that place and that Billy Monks also hung around that place.

Now, I would also want to state for the record that we interviewed Billy Monks' on or about March 8th, Mr. [fol. 198] Evers and myself, for the first time and from the date of our first visit to him that he denied any implication in the matter and he recanted completely any confession or statement that he had made.

THE COURT: Is there an order on your appointment?

MR. RUBENSTEIN: There is a letter of appointment. We were here to see him the very day that the letter was written because we had been notified by telephone of our appointment and then confirmed subsequently by the letter. The letter was dated March 8, 1957.

MR. EVERS: We were notified by phone on the preceding day, preceding Friday, so we made the arrangements to see him as soon as possible and actually on the date of the letter—

THE COURT: Well, the letter is dated March 8th.

MR. JOELSON: Yes, sir, we—

* * * *

[fol. 209] **MR. JOELSON:** * * *

May I recall Mr. Monks for just one or two questions?

THE COURT: Yes.

WILLIAM MONKS, having been previously sworn, is recalled and testified as follows:

FURTHER CROSS-EXAMINATION

BY MR. JOELSON:

Q Mr. Monks, did you just hear the testimony of Mr. Rohloff which indicated that you were not in school on November 13, 1956?

A Yes.

Q Now, is it still your recollection that the night you were in that candy store on 15th Avenue and East 22nd Street watching boys playing the pinball machine and talking was a night preceding a day when you went to school?

[fol. 210] A Will you break that down in smaller words?

Q Well, do you still say you went to school the day after these things happened in the candy store?

A No.

Q How do you know that the night you are describing as having been in the candy store was November 12, 1956? How do you fix that date?

A Because it was only three days after this here happened. It was only three days after it happened when I was first picked up and I can remember that.

Q But you still couldn't remember before whether you were in school the next day, is that right?

A Yes.

Q And you couldn't remember whether or not you had been locked or closed in your room by your father on November 12th, 1956, is that right?

A Yes.

MR. JOELSON: That's all.

BY THE COURT:

Q William, do you have any recollection of what you did during the daytime on Armistice Day a year ago which would be November 12, 1956?

A No.

Q Well, that whole week practically you were out of school. Do you remember what you did?

[fol. 211] A Yes, I was collecting for Mr. Abrahams.

Q What does he do?

A In the paper business, delivers papers.

Q Were you working for him during that week?

A Yes.

Q How long had you been working for Abrahams?

A Maybe a year and a half?

* * * *

[fol. 212] BY MR. JOELSON:

Q William, do you remember what you did on the morning of November 13, 1956?

A No.

Q Didn't you testify before that on the morning after this time in the candy store on 22nd Street that you rode back to the store on your bicycle and then you went to Ellison Street? Do you now change that testimony?

A Yes.

Q Why did you say before that on the morning after you were in the candy store on November 12th and you went back to the store the following morning and then drove your bicycle to Ellison Street?

A I thought. I went to school that day.

Q So your best recollection is that you went to school the day after this incident in the candy store, is that correct?

MR. RUBENSTEIN: If your Honor please, he has already answered that question.

THE COURT: I will permit the question.

THE WITNESS: Yeah, but now I know I didn't go to school so I know what I did. I went over and probably met Mr. Abrahams and collected for him.

* * * *

[fol. 214] **JOSEPH MEOLA**, sworn.

DIRECT EXAMINATION

BY MR. JOELSON:

Q Detective Meole, are you a member of the Paterson police force?

A Yes, sir.

Q On February 15, 1957, were you assigned to duty in the Detective Bureau?

A I was.

Q And on that date did you have occasion to question William Monks?

A The following day, sir, early in the morning which was a continuation of that job right there.

Q Did you go to William Monks' home on February 15?

A Yes, sir.

Q And as a result of the visit to his home did you go any place else?

A Yes, I went to several other places and finally wound up at 421 Ellison Street where William Monks was living.

Q Whose home is there?

A Mr. Rammage.

[fol. 215] Q And at this time did you take Monks into custody?

A Yes, I did.

Q And did you ask him about anything?

A I questioned him about two purse snatches that occurred earlier in the evening which he readily admitted to.

Q Now, did you question him at all in any respect about either the assault on Giovanna Giambra or Naomi Weiss?

A I did not.

* * * *

CROSS-EXAMINATION

BY MR. RUBENSTEIN:

Q About what time did you pick him up? Was it early morning of the 16th?

A Approximately one o'clock.

Q He was asleep?

A Yes.

Q You woke him up?

A Yes.

Q Got him dressed?

A Yes.

[fol. 216] Q Took him down to the station?

A That's right.

Q How long did he stay at the station?

A He stayed in the station approximately an hour and a half, two hours.

Q And then he went where?

A He went with us and pointed out to where he buried the purses.

Q What time was that?

A I would say approximately 3:30 or four o'clock.

Q Were the places he pointed out the correct places?

A The first time, no.

Q The second time?

A Yes.

Q And you recovered the purses?

A We did.

Q So he was still up at 4:30?

A Yes, sir.

Q Were you with him constantly from the time he was taken into custody at one o'clock until 4:30?

A Yes.

Q You were there at all times?

A Yes.

Q Did anybody else ask him any questions?

A No, Detective Spesanti was with me but he didn't ask any questions.

Q At 4:30 what happened to William?

[fol. 217] A We continued talking to William.

Q Until?

A Approximately twelve o'clock.

Q Noon?

A Noon hour.

Q In other words, from the time at one o'clock until the next day at noon or twelve you talked to him?

A Yes.

Q And he had already admitted the purse snatchings?

A Yes.

Q He showed you where they were?

A That's right.

Q About what time did you recover the purses?

A Well, that morning about 3:30.

Q You had already recovered the purses?

A That's right.

Q Can you tell me what you spoke about from 3:30 until twelve o'clock noon the next day if he had already admitted it?

THE COURT: I think there is a little misunderstanding on that point. Straighten those times out again.

Q About 3:30 in the morning is when you found the purses, is that correct?

A Yes.

Q And you continued to question him or talk to him until noontime the next day?

[fol. 218] A Well, it wasn't persistent questioning; on and off.

Q Until noontime the next day?

A Approximately.

Q I ask you what were you questioning him about? What were you discussing with him until 3:30 until noontime?

A Well, we had been getting a series of house burglaries in the neighborhood, larencies from autos, bicycle thefts.

Q You were asking him about these other things that you thought he might be implicated in?

A Yes.

Q You say you didn't ask him a question about Giambra or Weiss?

A Definitely not.

Q Detective, you were with Monks on February 26th also, wer'n't you?

A Yes, I think I was.

Q About when did you see Monks?

A I don't follow you.

Q On the 26th about what time of the day did you first see Monks?

A I have to refer to my reports.

Q If you have your reports, refer to anything which will refresh your recollection. Are these reports that you made?

A I along with Sergeant Ventimiglia.

Q Did you type them up yourself?

A No.

Q Did you make the reports?

[fol. 219] DETECTIVE VENTIMIGLIA: I was a much faster typist.

Q Were you there with him when they were made?

A Oh, yes.

Q All right, read it over to refresh your recollection. First now I ask you do you have any recollection of it without those notes, Detective?

A Pardon?

Q Do you have any recollection of the 26th incident without those notes?

A Well, there was 21, 22, and so forth, and I can't pick one particular day out and recall exactly what happened.

Q Were you there when he signed the confession?

A Oh, yes.

Q That's the 26th, does that refresh your recollection?

A Yes, yes.

* * * *

Q Were you with the boy all day on that day, if you recall?

A Well, no, there was times when he was with Mr. Richard Arther.

[fol. 220] Q Other than the times that he was with Mr. Richard Arther?

A Yes.

Q Were any pictures or photographs of any
shown to Willie Monks on that day?

* * * *

Q Do you remember, without referring to the
Mr. Meola?
A Offhand I couldn't say. I have to refer
report.

* * * *

THE WITNESS: I don't recall him being shown
Q You say that because there is no referen
there?
A I truthfully don't recall showing any. There
have been. I may have gone to the men's room or
have stayed outside for a few minutes.
Q But you don't recall any photographs?
A I don't recall any photographs.

* * * *

[fol. 223] THE COURT: I want to ask Willia
you ask for this lie detector test?
WILLIAM MONKS: I told them I would take
THE COURT: Did you specifically ask for it
get it?
WILLIAM MONKS: I suggested it.
THE COURT: You suggested it first before the
WILLIAM MONKS: Yes, sir.

VINCENT DESIMONE, having been previously
is recalled and testified as follows:

* * * *

[fol. 224] BY MR. JOELSON:

Q Detective DeSimone, could you tell us, if
member, whether or not Willie Monks asked to
lie detector test or whether he was asked whet
would submit to a lie detector test?
A He was asked by me, sir, if he was wil
submit to a lie detector test.
Q What was his answer?
A He says, "Yeah, they are fake anyway."
Q Do you remember when that was?

A On the first day we questioned h [fol. 225] February 18, 1957, at the Shelte

* * * *

THE COURT: Mr. Jordan, I think sented this matter fairly, indicating that y sense duty towards the public as well as to Monks.

The first complaint or delinquency peti which charges William Monks on Novembe front of 195 Wall Avenue, while in the com assault and robbery, struck Giovanna Giamp ly five, on the head with a blunt instrumen occasions which resulted in her death on 1956.

Now, I will first decide that matter. Th comes from a confession that William ma circumstances which were very adequately d evidence here. The Court assigned Mr. J [fol. 226] sit with William and observe hi his rights. Mr. Jarmolowicz is a profes many years experience in handling juvenile reposed this confidence in Mr. Jarmolowicz confidence in him as well, so that I know t no imposition upon William Monks during ing.

I am also impressed with the testimony Devigmore and the other officers, Detective Detective Lejeune, and I am convinced th fair with William Monks, so that this conf opinion was voluntary, and I find as a fa voluntary, that there were no improper in ferred, and that there was no force of an kind.

The circumstances that he was here for period and I am here in the Courthouse of February is perhaps unfortunate, but it due to the various interruptions and w stenographer.

Our cases which deal with confession fact that the confession of guilty imposes a and tiredness or [illegible] at any rate, upon a person. But going beyond that, let's view on the Gianakos matter (Ex. 22): the Talbot admission, the admission orally to Detective DeSimone, to Probation Officer Jarmolowicz. He told him fairly, William, if you didn't do this don't admit it. He had a heart to heart talk with these men, and after all this and after he signed Exhibit S-6, and which was the Gianakos confession, he made corrections in that in addition to marking his initials on each page. He took about twenty minutes during the course of the trial here to read the newspaper article. He wasn't the least bit perturbed, and it's evident that he took his time in reading this statement which he signed. The statement doesn't appear to be accurate in every detail, but in the basic essential facts it's accurate, and after this statement, as he has pointed out, he had a talk with Talbot in which he admitted it.

When his mother said to him at the Shelter, "William, did you do this terrible thing?" he shook his head in the affirmative. He told different other stories, or rather gave different other statements which confirmed the fact that he had confessed and confessed voluntarily.

Now, let's consider what he said actually happened. He says I read the Gianakos (in effect) situation from the newspapers. Now, that happened November 12, 1956 (Ex. 22). There is no evidence that he read any newspapers between November 12, 1956, and February 20th when he had the talk here, and yet if you will look at Exhibit S-10, he pointed out a spot which is almost the identical spot referred to the detective in S-23, S-25 having been taken the morning after the incident.

How could he remember with such detail as that from the newspaper article?

Now, when I say that I have confidence in the officers and the probation officer, and the detectives who handled this interrogation, I mean that I don't think they put this story into William's mouth. I think this statement, S-6, is his statement, and I recall Mrs. Kearns testifying that she was in the car around the corner past the store, a little distance from the school, and she was talking with some other women, and they were expecting to go into this school, in—and the school lights went on, and all this is around the time of 8:30, and William says after the incident of striking her, and he very graphically described that to Detective Desimone, after striking her down in the street, 14th Avenue, that he looked down then to 14th Avenue towards where Mrs. Kearns was and he saw people, and then he decided to go through the park.

[fol. 229] Now, it's quite strange that at that very moment, or around that time, that Mrs. Kearns says the lights went on—and, of course, there is a fair inference—that this Giambra girl with her notebook for the church affair, her eventual destination that night was the church.

On November 13, and Mr. Joelson has pointed this out, William said he went to school. He didn't go to school at all. He didn't go the 14th, 15th or the 16th, all the other days in that week. The 12th was a holiday.

His father said to him in effect, William go to his room that night. He doesn't stay there. He ducks out the cellar door, this is on the 12th.

The mother and father are in trepidation about this boy, and they are concerned, and they go down to the probation office the next morning and say he is getting out of hand. I can't say that I am impressed by his testimony on the witness stand. I don't think he tells the truth.

The Giambra incident was a brutal murder, and I judge William Monks delinquent and hold him responsible for that incident.

Now, with respect to the Weiss affair, the Weiss affair is case number J1360 and it charges that on [fol. 230] February 24, 1956, at about 10:10 p.m., on East 31st Street between Broadway and 13th Avenue, William Monks did forcibly strike Noomi Weiss on the head with a blunt instrument causing a deep laceration which required 15 sutures, and resulting in her hospitalization for a period of between six and seven weeks, and further that he did steal and carry away her pocketbook containing thirty dollars, an Elgin wrist watch and various other articles.

All the factual determinations that I have made generally with respect to the confessions hold true with respect to the Weiss situation.

We have the admission of William, and he so testifies on the stand, that he and Stopford went into 465 - 15th Avenue on other occasions and used the bathroom there, and isn't it peculiar or a strange coincidence, that the footsteps from the scene of the Weiss assault led to this house.

As his father said it's a little strange that he ran in front of his house, but the physical characteristic at 10 o'clock at night are such with the trees and the general characteristic there that he wouldn't be noticed.

Another item that is striking as far as Miss Weiss' testimony is concerned, and she indicated that the foot- [fol. 231] steps came from over her right shoulder in that area, which, if they were walking north on the westerly side of East 31st Street towards Broadway, that would be the direction that William would come in, come towards her if he were hiding behind the tree which he indicates in one of these photographs.

William's mother takes the stand. She said we had discussed this Weiss case rather frequently in the house. William says no; he said he didn't know anything about the Weiss case. But, again, you have the corroborating evidence with respect to the contents of the purse, the admissions to Ogg and Stopford and the confessions.

Now, he doesn't say with respect to the Weiss matter that he read about that in the paper. He would have us believe that the detectives told him the complete story, that Mr. Jarmolowicz, the officer appointed by the court to protect his rights, stood by and let these detectives impose upon William and I find that is not so.

I find that when he pointed out the location of the Weiss offense that he indicated that he knew the place where it occurred, and that he knew before that he was the party responsible for the commission of the offense.

[fol. 232] You can't possibly reconcile his story that he didn't know about the Weiss affair at all with either Ogg or Stopford where he pointed out that to them. If he had said that he knew about the Weiss affair completely from the newspapers it would have been consistent.

So, I find that S-5 is a voluntary statement and was taken under circumstances that were fair to the defendant. I don't say that I completely approve of the incident, all the incidents with respect to the lie detector test, but I don't think in this case that any harm was done to the rights of the defendant, and I judge him to be a delinquent because of the circumstances of the Weiss case.

Now, on the offense J1359, which is the Giambra matter, the disposition will be that William Monks will be committed to the New Jersey Reformatory at Bordentown for indeterminate term, and on the Weiss case, which is J1360, the disposition will be that the said William Monks will be committed to the Reformatory at Bordentown for an indeterminate term.

This is the institution where he has been since Judge Schamach sentenced him there on March 20th, and the reason for that disposition at that time was that he would get psychiatric treatment, and it will be noted in a [fol. 233] communication from the Court to the authorities at Bordentown that it is expected that such treatment will be given. The Menlo report, or copies of them should be submitted to Bordentown.

Now, it's in the contemplation of the Court that he may from time to time be transferred from one institution to another as the law and the rules of the court may provide. You have read, Mr. Jodson, the Menlo reports, and counsel, you have had an opportunity to see the Menlo reports, and I can't see that there are any other provisions that can be made at this time with respect to his rehabilitation other than I have indicated in what I have said as far as sentencing is concerned.

Now, Mr. Evers and Mr. Rubenstein want a general objection to my findings which is noted.

* * * *

IN THE JUVENILE AND DOMESTIC RELATIONS COURT OF PASSAIC COUNTY

Order

BE IT REMEMBERED, that on this 11th day of December in the year nineteen hundred and fifty-seven, the above named juvenile appeared before me, Judge of the Juvenile and Domestic Relations Court of the County of Passaic, on a petition under oath made by Sgt. Edward J. Keys, of the City of Paterson charging the said juvenile with juvenile delinquency as set forth in petition number J-1359 in accordance with the provisions of the juvenile and domestic relations court law, N.J.S. 2A:4-1 to 2A:4-41, revised statutes of New Jersey, 1951, and the supplements thereto and amendments thereof.

The evidence being closed, I did decide that the said petition was sustained and the above named juvenile was adjudged a juvenile delinquent, whereupon the following disposition is ordered: that said William Monks is committed to the New Jersey Reformatory at Bordentown for an indeterminate term. The Court recommends psychiatric treatment: from the date of this my order.

Hugh C. Spernow
Judge

IN THE JUVENILE AND DOMESTIC RELATIONS COURT OF PASSAIC COUNTY

ORDER

BE IT REMEMBERED, that on this 11th day of December in the year nineteen hundred and fifty-seven, the above named juvenile appeared before me, Judge of the Juvenile and Domestic Relations Court of the County of Passaic, on a petition under oath made by Sgt. Edward J. Keys of the City of Paterson charging the said juvenile with juvenile delinquency as set forth in petition number J-1360 in accordance with the provisions of the juvenile and domestic relations court law, N.J.S. 2A:4-1 to 2A:4-41, revised statutes of New Jersey, 1951, and the supplements thereto and amendments thereof.

The evidence being closed, I did decide that the said petition was sustained and the above named juvenile was adjudged a juvenile delinquent, whereupon the following disposition is ordered: Committed to the New Jersey Reformatory at Bordentown for an indeterminate term. The Court recommends psychiatric treatment; from the date of this my order.

HUGH C. SPERNOW
Judge

* * * *

IN THE JUVENILE AND DOMESTIC RELATIONS COURT OF PASSAIC COUNTY

April 11, 1958

Honorable Hugh C. Spernow, Judge
Juvenile and Domestic Relations Court
Passaic County
Patterson, New Jersey

Re: William Monks, NJRB #22588-J

Dear Judge Spernow:

Recently we wrote to the Deputy Attorney General assigned to the Department of Institutions and Agencies as follows:

"This man was sentenced to Bordentown as a juvenile by the Passaic Juvenile and Domestic Relations Court on December 12, 1957. Because of the amendment to the Juvenile Court Act by the present session of the Legislature, it would appear that we must determine the maximum of this man's sentence and this apparently will depend upon definition of the crime as murder in the first degree, murder in the second degree, or manslaughter.

"None of these words is used in the commitment but rather we find this language, 'New sentence received by Juvenile Court: (1) Did forcibly strike Naomi Weiss, age 42, on the head with a blunt instrument causing a deep laceration which required fifteen sutures and resulting in her hospitalization for a period of between six and seven weeks, and did steal and carry away her pocketbook containing $30.00 and an Elgin wrist watch and other articles. (2) Did on November 12, 1956, while in the commission of an assault and robbery, strike Giovanna Giambra, age 25, on the head with a blunt instrument on repeated occasions, which resulted in her death on November 13, 1956."

"We will appreciate it if you will advise us as to what category of crime as defined in the act this language fits or in the alternative, advise us how to proceed."

Mr. Urbaniak, in his reply, suggests that we communicate with you "to ascertain what crime was committed by the above captioned subject in order to assist you in fixing his maximum sentence." The revision of the Juvenile Court Act referred to above is Chapter 220, P.L. 1957.

Very truly yours,

ALBERT C. WAGNER
Superintendent

ACW:mmb

IN THE JUVENILE AND DOMESTIC RELATIONS COURT OF PASSAIC COUNTY

JUVENILE AND DOMESTIC RELATIONS COURT
PASSAIC COUNTY

COURT HOUSE PATERSON 1, N. J.

Hugh C. Spernow
Judge
Thomas F. Hand
Clerk

Domestic Relations Court
LAmbert 5-5020

May 2, 1958

Albert C. Wagner, Superintendent
N. J. Reformatory
Bordentown, New Jersey

Re: William Monks
NJRB # 22588-J

Dear Mr. Wagner:

I served copies of your letter of April 11, 1958 upon Deputy Attorney General Charles S. Joelson, and J. Mortimer Rubenstein and James P. Evers, counsel for William Monks, constituting this as a form of notice of motion. These attorneys appeared before me on April 21, 1958 and the contents of your letter were discussed. (You will note that a notice of appeal has been filed in this matter.)

To assist you in fixing the maximum sentence, I herewith notify you that William Monks' determination of delinquency by the Court for his *actions concerning Giovanni Giacobbe's death was based upon facts constituting murder in the first degree. The determination of delinquency by the Court for his actions in the Naomi Weiss offense, was based upon facts constituting robbery and atrocious assault and battery.*

Very truly yours,

/s/ Hugh C. Spernow
Judge.

hcs:mp
cc: Atty. Gen. John Thevos
J. Mortimer Rubenstein, Esq.
James P. Evers, Esq.

IN THE JUVENILE AND DOMESTIC RELATIONS COURT OF PASSAIC COUNTY

NEW JERSEY REFORMATORY AT BORDENTOWN

(TRANSFER TO STATE PRISON)

45-305

Date: May 31 1967

TO: New Jersey State Prison

RE: William Monks NJRB # 22588-J

County: Passaic Crime: JUV DELQ (Murder)

Original Maximum: Life

Present Earned time allowance: 728 days

Adjusted Maximum

Previous " " "

Co. Jail credit to date of sentence: None

Owes on this sentence:
Life

Parole Revoked On:
Never on parole

/s/ John Argentero
JOHN ARGENTERO
Classification Officer

[NOT FOR PUBLICATION WITHOUT THE APPROVAL
OF THE COMMITTEE ON OPINIONS]

IN THE SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

A-1549-66

STATE OF NEW JERSEY, COMPLAINANT-RESPONDENT

vs

WILLIAM MONKS, DEFENDANT-APPELLANT

Argued February 26, 1968—Decided March 27, 1968

Before Judges KILKENNY, CARTON and COLLESTER

On appeal from Passaic County Juvenile
and Domestic Relations Court

MR. RICHARD HELLER argued the cause for appellant.

MR. ARCHIBALD KREIGER, Assistant County Prosecutor, argued the cause for respondent (MR. JOHN G. THEVOS, Passaic County Prosecutor, attorney).

The opinion of the court was delivered

PER CURIAM

On December 11, 1957 defendant, then 15 years of age, was found guilty of two separate acts of juvenile delinquency and sentenced by the judge of the Juvenile and Domestic Relations Court to indeterminate terms therefor at the Bordentown Reformatory. He filed a timely appeal in January 1958, but suffered it to remain dormant until 1967 when he was transferred to State Prison, where he is now confined. We granted him leave on August 21, 1967 to prosecute his appeal as an indigent, assigned counsel to represent him and provided a transcript.

The two incidents were of similar pattern, though separated in time by several months and involving different victims. On February 24, 1956 the purse of Naomi

Weiss was snatched. She was struck on the head with a blunt instrument when she attempted to resist and suffered serious injuries. The victim was unable to identify her assailant. On November 12, 1956 the purse of Giovanna Giambra was snatched. She too was struck over the head with a blunt instrument, but her injuries were so severe that she died the next day. This victim was also unable to identify her assailant. Both events occurred in the City of Paterson.

Defendant was taken into custody by the police on February 16, 1957 in connection with two unrelated purse snatchings. During several interviews he revealed knowledge of the Weiss incident. Finally, on February 26, 1957 he admitted that he had attacked Miss Weiss and described the attack in some detail. The police then took him to the scene of the robbery and he reenacted the events of that evening for them. However, after this reenactment, defendant recanted and denied participation in the Weiss attack.

After further interrogation, defendant admitted his involvement in the Giambra episode and reconstructed it for the police. Being advised by the officers to tell the truth and unburden his conscience, defendant agreed to make statements concerning both attacks. A court reporter was summoned to take the statements in question and answer form. During the hour-long wait for the reporter to arrive, the police told defendant that he was being asked to give a voluntary statement and that it could be used against him. He agreed to give the statements and did so. In them he admitted committing both offenses.

It is undisputed that at no time was defendant informed that he could see an attorney or his parents. Nor did he make any such request. However, Mr. Jarmolowicz, a probation officer, was appointed by the judge of the Juvenile and Domestic Relations Court to protect defendant against any impropriety by the police. The probation officer was present throughout the police interrogations and when defendant gave his written signed statements incriminating himself. Mr. Jarmolowicz was absent only when defendant reenacted the Weiss attack and when defendant was alone with the polygraph operator. Jarmolowicz testified that defendant was not mistreated, was alert and relaxed throughout the day, and the questioning was carried on in brief sessions with frequent breaks. Defendant was being cared for at the Children's Shelter during this period.

I.

Defendant's first contention is that his admissions and confessions were obtained in violation of due process and were, therefore, improperly received in evidence.

The record supports the trial court's finding that the police interrogation was fair, was conducted in the presence of a court-appointed officer to insure its fairness and who testified thereto, and was not the product of force, fear or promise of any kind. The questioning was not prolonged at any one time and there were frequent breaks. The initial interrogations were not only brief but pertained primarily to the unrelated purse snatchings for which defendant had originally been taken into custody.

The statements were taken late in the evening but this was due to defendant's withholding his willingness to give them until after dinner and the delay in getting the stenographer, who did not arrive until 10:30 P.M. The statement concerning the Weiss attack was prepared from 10:45 to 11:30 P.M. From midnight until 1 A.M., the statement concerning the Giambra offense was taken. Defendant then signed both after making a few corrections.

These confessions were made long before *Escobedo* v. *Illinois*, 378 *U.S* 478 (1964) and *Miranda* v. *Arizona*, 384 *U.S.* 436 (1966). Defendant concedes that these cases are not applicable, not being retroactive under *Johnson* v. *New Jersey*, 384 *U.S.* 719 (1966). We agree with the trial court's finding that they were voluntarily made and were obtained under circumstances fundamentally fair. The court-appointed officer, who supervised the interrogation as an officer of the court, was in attendance at all critical moments to insure fundamental fairness and verified that fact.

Defendant cites in support of his position *Haley* v. *Ohio*, 332 *U.S.* 596 (1948); *Gallegos* v. *Colorado*, 370

U.S. 49 (1962); *State in the Interest of Carlo,* 48 *N.J.* 224 (1966), and *In re Gault,* 387 *U.S.* 1 (1967). These cases are factually distinguisable from the instant case. In *Haley,* a confession of murder by a 15-year-old boy was held involuntary because he was questioned by the police, working in relays, hour after hour, with no one at his side to see that the police went so far and no further, to see that they stopped short of coercion. Such was not the situation here. In *Carlo,* the youths underwent continuous questioning for over ten hours, in the hostile atmosphere of a police station, while repeated efforts on the part of their parents to see them were rebuffed. In a similar way, the other cited cases may be distinguished.

In brief, the decision in each case depends upon the totality of its own circumstances. Here, no physical coercion was employed. Defendant was not subjected to long and gruelling interrogations by relays of police officers. While his parents or an attorney were not present, their presence was not sought and defendant had by his side an experienced probation officer, at the court's direction, to act as his guardian during the questioning. Defendant's versions of the attacks were fully consistent with the physical evidence. His statements were taken by an official court reporter in question and answer form and reproduced verbatim on a typewriter. Thus, there was every effort made to insure an accurate reproduction under fundamentally fair circumstances.

II.

Defendant's next point is that there was insufficient corroboration in the Giambra case to support a conviction.

We find to the contrary. Defendant admitted his participation in either or both attacks to ten different people, including three of his friends, his mother and several police officers. His knowledge of the particulars of each offense was too great to be mere guesswork or fantasy. He knew and identified the kind of purse taken from Miss Giambra, although that purse was never found. He knew the contents of each purse. In addition, Miss Giambra described her assailant as wearing a dark leather jacket and, after defendant admitted owning such a jacket and wearing it during his attack on Miss Giambra, such a jacket was found in his home. We need not repeat other corroborating evidence expressed in the trial judge's findings.

Argument is made that although defendant admitted doing "this terrible thing," when asked by his mother, there was no showing that the "terrible thing" related to the Giambra incident. Considering the totality of the evidence and defendant's confessions of both offenses, it is manifest that the "terrible thing" embraced what his admissions specified.

III.

It is next contended that the trial court erred in permitting testimony that defendant had strangled a cat.

Assuming that this evidence should not have been admitted because it tended to show only that defendant had a brutal nature, the admission does not warrant a reversal. The case was tried without a jury and the experienced trial judge made no use of this evidence or reference thereto in his findings. Indeed, the photograph offered at the time this testimony was adduced was later removed from the case at the request of the State. This indicates that the trial judge was actually removing from the case the entire incident about the cat. Thus, the testimony as to the strangling of a cat was harmless error, at most, and had no bearing on the issue of defendant's guilt.

IV.

The final argument made by defendant is that his present confinement at State Prison for life is illegal.

When defendant was committed on December 11, 1957 to Bordentown Reformatory, pursuant to *N.J.S.2A*:4-37 (b), the commitment was for an indeterminate term. The statute, as then worded, provided no maximum period for the commitment, or any definite time for the confinement.

N.J.S.2A:4-37(b) was amended by *L.* 1957 *c.* 220, effective January 6, 1958, to provide that the time of confinement or parole shall not extend beyond the date upon which the child attains the age of 21 years, "except, that if the adjudication of juvenile delinquency is predicated upon an offense which, if committed by a person of the age of 18 years or over, would constitute any form of homicide as defined in sections 2*A*:113-1, 2*A*:113-2, 2*A*:113-4 and 2*A*:113-5 of the New Jersey statutes then the period of confinement shall be indeterminate and shall continue until the appropriate paroling authority determines that such person should be paroled, but in such case the period of confinement and parole shall not exceed the maximum provided by law for such offense if committed by a person of the age of 18 years or over * * *."

By reason of that amendment, the Superintendent of Bordentown Reformatory requested the Passaic County Juvenile and Domestic Relations Court to specify the crimes defendant committed, if he had been 18 years or over. After consultation with the attorneys in the case, the Juvenile Court replied on May 2, 1958 that as to the Weiss offense the crime would be atrocious assault and battery, and as to Giambra it would be murder in the first degree. On the basis thereof, defendant's maximum confinement was reflected in the records as "for life."

In *State* v. *Smigelski*, 30 *N.J.* 513, 526-527 (1959), the question was raised whether the statute was *ex post facto* and, hence, illegal as to a sentence imposed before its effective date. The court upheld the statute as beneficial and ameliorative, in that it clarified the exact period to be served by the juvenile as opposed to the former indefinite term. Thus, defendant knows his maximum term and when he becomes eligible for parole. We are advised that defendant becomes eligible to apply for parole again in 1969.

Defendant's transfer from Bordentown Reformatory to State Prison was authorized by N.J.S.A. 30:4-85. We find no merit in any claim that this improperly affected the possibility of his parole.

The judgments are affirmed.

IN THE SUPREME COURT OF NEW JERSEY

C-214 September Term 1967

STATE OF NEW JERSEY, PLAINTIFF-RESPONDENT

vs.

WILLIAM MONKS, DEFENDANT-PETITIONER

ON PETITION FOR CERTIFICATION ORDER
DENYING PETITION—May 28, 1968

To Appellate Division, Superior Court:

A petition for certification having been submitted to this Court, and the Court having considered the same,

It is hereupon Ordered that the petition for certification is denied with costs.

WITNESS the Honorable Joseph Weintraub, Chief Justice, at Trenton on the 28th day of May, 1968.

/s/ John H. Geldea
Clerk of the Supreme Court

SUPREME COURT OF THE UNITED STATES

No. 712 Misc., October Term, 1968

WILLIAM MONKS, PETITIONER

v.

NEW JERSEY

On petition for writ of Certiorari to the Supreme Court of the State of New Jersey.

ORDER GRANTING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND GRANTING PETITION FOR WRIT OF CERTIORARI—May 19, 1969

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted. The case is transferred to the appellate docket as No. 1406 and placed on the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompained the petition shall be treated as though filed in response to such writ.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1969 368148 304